

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982
5 -or- (213) 576-6910 (Direct)

FILED
SEP - 7 2004
DEPARTMENT OF REAL ESTATE

By Juan B. Jim

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12 ALEX LOUIS KIM,) DRE NO. H-30627 LA
13 Respondent.) OAH NO. L-2001060410
14)
15)

16 STIPULATION AND AGREEMENT

17 AND

18 DECISION AFTER REJECTION

19 The California Department of Real Estate ("Department")
20 filed an Accusation against ALEX LOUIS KIM ("Respondent") on
21 January 20, 2004.

22 On April 29, 2004, a hearing was held before
23 Milford A. Maron, Administrative Law Judge ("ALJ"), Office of
24 Administrative Hearings, at Los Angeles, California. Department
25 of Real Estate Counsel, Chris Leong, represented the Complainant.
26 Respondent personally appeared at the hearing and was represented

1 by Frank M. Buda, Esq. Evidence was received, the record was
2 closed, and the matter was submitted.

3 On May 19, 2004, the Proposed Decision of the ALJ was
4 issued, and determined, among other things, that the terms and
5 conditions of the restricted real estate salesperson license
6 issued to Respondent should be amended to reflect that
7 Respondent shall not be eligible to apply for an unrestricted
8 license until five years from the issuance of the restricted
9 license.

10 On June 18, 2004, the Real Estate Commissioner, by his
11 Chief Counsel, rejected the Proposed Decision of May 19, 2004.

12 The parties wish to settle this matter without further
13 proceedings.

14 IT IS HEREBY STIPULATED by and between Respondent
15 acting by and through Frank M. Buda and the Department, acting
16 by and through Chris Leong, Counsel for the Department of Real
17 Estate, as follows for the purpose of settling and disposing of
18 the Accusation filed by the Department.

19
20 1. It is understood by the parties that the Real Estate
21 Commissioner may adopt the Stipulation and Agreement
22 ("Stipulation") as his decision in this matter, thereby imposing
23 the penalty and sanctions on Respondent's real estate license as
24 set forth in the below "Decision and Order". In the event the
25 Commissioner in his discretion does not adopt the Stipulation,
26 the Stipulation shall be void and of no effect; the Commissioner
27 will review the transcript and the evidence in the case, and

1 hereby issue this Decision after Rejection as his Decision in
2 this matter.

3 2. By reason of the foregoing and solely for the
4 purpose of settlement of the Accusation without further
5 administrative proceedings, it is stipulated and agreed that the
6 following shall be adopted as the Commissioner's Decision:

7 FACTUAL FINDINGS

8 1. The Accusation was made and filed by Maria Suarez
9 ("Complainant"), in her official capacity as a Deputy Real Estate
10 Commissioner, Department of Real Estate, State of California
11 ("the Department").

12 2. On or about June 29, 2001, before the Department,
13 Case No. H-29111 LA, was filed based on violations of Code
14 Sections 480(a), 480(c), 10177(a), and 10177(b). On August 9,
15 2001, a Stipulation and Waiver in that case was filed granting
16 Respondent the right to a restricted real estate salesperson
17 license. The facts and circumstances leading to Respondent's
18 conviction were that he was in possession of marijuana for
19 sale, in violation of Health and Safety Code Section 11359, and
20 the failure to disclose that conviction on his application.

21 3. On or about August 8, 2001, in the Superior Court
22 of California, County of Orange, North Justice Center, Case No.
23 FU01NM11202, Respondent was convicted of violating
24 Section 243(e)(1) of the California Penal Code (Battery against
25 spouse, Cohabitant), a crime involving moral turpitude, which
26 is substantially related to the qualifications, functions and
27

1 duties of a real estate licensee. The facts and circumstances
2 leading to Respondent's conviction were that Respondent and his
3 wife were engaged in a heated argument that escalated to a
4 physical confrontation. No permanent injury was suffered by
5 the spouse. Respondent and his wife have since separated and
6 Respondent testified that he will file for divorce.

7 4. As a result of the conviction, respondent was
8 placed on three years summary probation on certain terms and
9 conditions, including performing 8 hours of community service,
10 domestic violence classes and serve 30 days in jail. Respondent
11 is still on probation until August 2004.

12 LEGAL CONCLUSIONS

13 1. Based on Finding 3, cause exists for revocation of
14 Respondent's restricted salesperson license based on Business and
15 Professions Code ("Code") Sections 490 and 10177, subdivision
16 (b).

17 2. The following factors in mitigation and of
18 rehabilitation were considered by the ALJ. Respondent's wife
19 wrote a letter of recommendation on Respondent's behalf.
20 Respondent has the support of his real estate broker who is a
21 friend of his wife. Respondent supports his two children.
22 Respondent presented letters of recommendation.

23 ORDER

24 WHEREFORE, THE FOLLOWING ORDER is hereby made:

25 All licenses and licensing rights of Respondent ALEX
26 LOUIS KIM, under the Real Estate Law are revoked; provided,
27

1 however, a restricted real estate salesperson license shall be
2 issued to Respondent pursuant to Section 10156.5 of the Business
3 and Professions Code if Respondent makes application therefor and
4 pays to the Department of Real Estate the appropriate fee for the
5 restricted license within 90 days from the effective date of this
6 Decision. The restricted license issued to Respondent shall be
7 subject to all of the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations,
9 conditions, and restrictions imposed under authority of Section
10 10156.6 of that Code:

11 1. The restricted license issued to Respondent may be
12 suspended prior to hearing by Order of the Real Estate
13 Commissioner in the event of Respondent's conviction or plea of
14 nolo contendere to a crime which is substantially related to
15 Respondent's fitness or capacity as real estate licensee.

16 2. The restricted license issued to Respondent may be
17 suspended prior to hearing by Order of the Real Estate
18 Commissioner on evidence satisfactory to the Commissioner that
19 Respondent has violated provisions of the California Real Estate
20 Law, the Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner or conditions attaching to the restricted license.

22 3. Respondent shall not be eligible to apply for the
23 issuance of an unrestricted real estate license nor for the
24 removal of any of the conditions, limitations or restrictions of
25 a restricted license until two (2) years have elapsed from the
26 effective date of this Decision.

27

1 4. Respondent shall submit with any application for
2 license under an employing broker, or any application for
3 transfer to a new employing broker, a statement signed by the
4 prospective employing real estate broker on a form approved by
5 the Department of Real Estate which shall certify:

6 (a) That the employing broker has read the Decision of
7 the Commissioner which granted the right to a restricted license;
8 and

9 (b) That the employing broker will exercise close
10 supervision over the performance by the restricted licensee
11 relating to activities for which a real estate license is
12 required.

13 5. Respondent shall, within nine (9) months from the
14 effective date of this Decision, present evidence satisfactory to
15 the Real Estate Commissioner that Respondent has, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license. If Respondent fails to
20 satisfy this condition, the Commissioner may order the suspension
21 of the restricted license until the Respondent presents such
22 evidence. The Commissioner shall afford Respondent the
23 opportunity for a hearing pursuant to the Administrative
24 Procedure Act to present such evidence.

25 DATED: 8/12/04

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

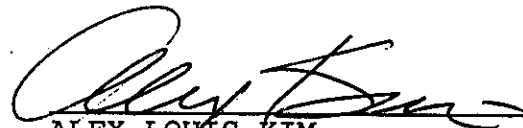
* * *

1 I have read the Stipulation, have discussed it with my
2 counsel and its terms are understood by me and are agreeable and
3 acceptable to me. I willingly and voluntarily agree to enter
4 into this Stipulation.
5


6 Respondent can signify acceptance and approval of the
7 terms and conditions of this Stipulation by faxing a copy of
8 the signature page, as actually signed by Respondent, to the
9 Department at the following fax number: (213) 576-6917.

10 Respondent agrees, acknowledges and understands that by
11 electronically sending to the Department a fax copy of his
12 actual signature as it appears on the Stipulation, that receipt
13 of the fax copy by the Department shall be as binding on him as
14 if the Department had received the original signed Stipulation.

15 July 30, 2004
16 DATED


ALEX LOUIS KIM
Respondent

18 8-11-04
19 DATED


FRANK M. BUDA, ESQ.
Counsel for Respondent
(as to content only)

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DECISION AND ORDER

The foregoing Stipulation and Agreement and Decision
After Rejection is hereby adopted by the Real Estate Commissioner
as his Decision and Order.

This Decision shall become effective at 12 o'clock noon
on SEP 27 2004, 2004.

IT IS SO ORDERED August 31, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

Sachs
Yang

FILED
JUN 24 2004
DEPARTMENT OF REAL ESTATE

By *Laura B. Stone*

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

In the Matter of the Accusation of)	No. H-30627 LA
ALEX LOUIS KIM,)	L-2001060410
Respondent.)	

NOTICE

TO: ALEX LOUIS KIM, Respondent, and FRANK BUDA, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated May 19, 2004, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated May 19, 2004, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on April 29,

///

1 2004, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant:

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of April 29, 2004, at the Los Angeles office
6 of the Department of Real Estate unless an extension of the time
7 is granted for good cause shown.

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

13 DATED: June 18, 2004

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15 JOHN R. LIBERATOR
16 Acting Real Estate Commissioner
17 *By Robin T. Wilson, Chief Counsel*

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ALEX LOUIS KIM,

Respondent.

Case No.: H-30627 LA

OAH No.: L2004010685

PROPOSED DECISION

On April 29, 2004, in Los Angeles, California, Milford A. Maron, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Chris Leong, Staff Counsel. Respondent, Alex Louis Kim, appeared in person and was represented by his counsel, Frank M. Buda, Esq.*

Oral and documentary evidence were received, the record was closed, and the matter was submitted for decision.

1

Maria Suarez, Complainant, is a Deputy Real Estate Commissioner of the State of California and made the Accusation in her official capacity.

2

Respondent was first issued a salesperson's license on August 22, 2001. A Statement of Issues was filed on June 29, 2001 setting forth the basis for denial of the application due to a conviction for possession of marijuana for sale, a violation of Health and Safety Code Section 11359, and the failure to disclose this conviction in his application. A Stipulation and Waiver was entered into between the parties on June 30, 2001, granting respondent a restricted license effective on August 22, 2001. The effective date for respondent to apply for removal of the restrictions was June 30, 2003; thus respondent is currently eligible to apply for removal of the restrictions.

* Respondent's special notice is deemed to be without merit and thus is denied.

A. On or about August 8, 2001, in the Superior Court of California, in and for the County of Orange, North Justice Center, Case No. FU01NM11202, respondent was convicted of violating Section 243(e)(1) of the Penal Code (battery against spouse, cohabitant), a crime involving moral turpitude, which is substantially related to the qualifications, functions and duties of a real estate licensee.

B. Respondent and his wife were engaged in a heated argument that escalated to a physical confrontation. No permanent injury was suffered by the spouse. Respondent and his wife have since separated and respondent indicates that he will file for divorce.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Cause exists against Alex Louis Kim pursuant to Sections 490 and 10177(b) of the Business and Professions Code for the suspension or revocation of his restricted license.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Paragraph 2 of the terms and conditions of the restricted license shall be amended to read as follows:

"I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until five (5) years have elapsed from the date of issuance of the restricted license to respondent."

All other terms and conditions of the restricted license shall continue in full force and effect.

Dated: May 19, 2004

Milford A. Maron
MILFORD A. MARON
Administrative Law Judge
Office of Administrative Hearings

MAM:rfm

not adopted

Sacto
Wong

FILED
FEB 25 2004

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By *Jama B. Brown*

In the Matter of the Accusation of

ALEX LOUIS KIM,

}
}

Case No. H-30627 LA

OAH No. L-2004010685

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the **Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California** on **APRIL 29, 2004**, 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

By *Chris Wong*
CHRIS LEONG, Counsel

Dated: February 25, 2004

cc: Alex Louis Kim
LSB Inc.
Frank M. Buda, Esq.; Sacto; OAH

Sacks

FILED
JAN 20 2004
DEPARTMENT OF REAL ESTATE

By *James B. Kim*

1 CHRIS LEONG, Counsel (SBN 141079)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982
6 -or- (213) 576-6910 (Direct)

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ALEX LOUIS KIM,)
13 Respondent.)

No. H- 30627 LA

A C C U S A T I O N

14
15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ALEX LOUIS KIM (hereinafter "Respondent"), is informed
18 and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code"), as a
23 restricted real estate salesperson.

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II

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in her official capacity.

PRIOR CASE

III

On or about June 29, 2001, before the Department of Real Estate ("Department"), Case No. H-29111 LA, was filed based on violations of Code Sections 480(a), 480(c), 10177(a), and 10177(b). On August 9, 2001, a Stipulation and Waiver in that case was filed granting Respondent the right to a restricted real estate salesperson license.

CONVICTION

IV

On or about August 8, 2001, in the Superior Court of California, County of Orange, North Justice Center, Case No. FU01NM11202, Respondent was convicted of violating Section 243(e)(1) of the California Penal Code (Battery against spouse, Cohabitant), a crime involving moral turpitude, which is substantially related to the qualifications, functions and duties of a real estate licensee.

V

The conviction set forth above constitutes cause under Code Sections 490 and 10177(b) for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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

10 Dated at Los Angeles, California

11 this 13th day of January, 2004.

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15 Deputy Real Estate Commissioner

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24 cc: Alex Louis Kim
25 LSB, Inc./Susan May Braun
26 Suarez
27 Sacto.
LF