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FEB 22 2006
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

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In the Matter of the Accusation of)	No. H-31855 LA
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))
JOHNNY KOO,) L-2005060618
))
))
Respondent.))
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DECISION

The Proposed Decision dated January 17, 2006, 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.

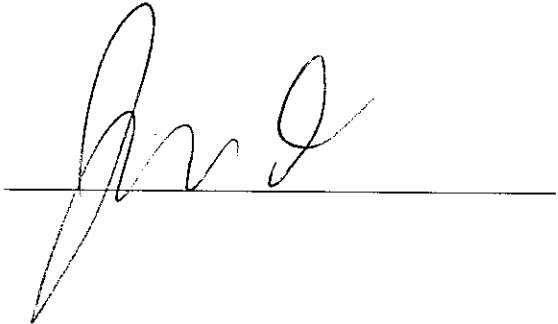
The Decision suspends or revokes one or more real estate licenses on grounds of knowingly making a false statement of fact required to be revealed in an application for license.

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 March 14, 2006.

IT IS SO ORDERED 2-9, 2006.

JEFF DAVI
Real Estate Commissioner



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

In the Matter of the Accusation of:

JOHNNY KOO,

Respondent.

No. H-31855 LA

OAH No. L2005060618

PROPOSED DECISION

This matter was heard by Christine C. McCall, Administrative Law Judge with the Office of Administrative Hearings, on December 19, 2005, in Los Angeles, California. Complainant was represented by James Peel, Staff Counsel for the Department of Real Estate. Respondent, Johnny Koo, appeared and was represented by his attorney, Frank M. Buda.

Oral and documentary evidence was received and argument was heard. The matter was submitted for decision on December 19, 2005. The Administrative Law Judge hereby makes findings of fact, conclusions of law and orders, as follows:

FACTUAL FINDINGS

1. On April 20, 2005, Complainant, Janice Waddell, filed the Accusation in the above-captioned proceeding while acting in her official capacity as Deputy Real Estate Commissioner of the Department of Real Estate (the Department), State of California.

2. Respondent is presently licensed as a real estate salesperson under the Real Estate Law (Business and Professions Code, Division 4, Part 1). He was first licensed on April 20, 1989.

Respondent's Renewal Application

3. On May 3, 2002, Respondent filed with the Department an application for renewal of his real estate salesperson license. Question 3 of the application asked: "Within the past four year period, have you been convicted of any violation of law?" Respondent answered "No," failing to disclose the convictions set forth in Factual Findings 4a and 5a.

Respondent's Convictions

4a. On July 16, 1999, in the Superior Court of California for the County of Los Angeles, Case Number BA181979, entitled *The People of the State of California v. Johnny Koo, et al.*, Respondent was convicted, on his plea of guilty, of one count of violating Penal Code section 245, subdivision (a), (assault with a deadly weapon), a felony which is substantially related to the qualifications, functions and duties of a real estate licensee.

4b. Imposition of sentence was suspended and Respondent was placed on three years formal probation, and ordered to serve 250 hours of community service, to pay penalties and fines totaling \$200 and to make restitution in the amount of \$500. Respondent paid all fines, penalties and restitution as ordered. On November 19, 2001, by order of the Superior Court pursuant to Penal Code section 1203.3, Respondent's probation was terminated, his conviction was set aside, and a plea of not guilty was entered; the case was dismissed pursuant to Penal Code section 1203.4.

4c. The facts and circumstances underlying the conviction were not established by the evidence at this administrative hearing.

5a. On September 8, 2000, in the Superior Court of California for the County of Los Angeles, Central District, Case Number BA200999, entitled *The People of the State of California v. Jae Kyung Koo*,¹ Respondent was convicted, on his plea of guilty, of one count of violating Penal Code section 182, subdivision (a) (1) (conspiracy to commit a crime), one count of violating Revenue and Taxation Code section 7153.5 (filing false tax return) and one count of violating Revenue and Taxation Code section 19705, subdivision (a) (filing a false tax return). These crimes are felonies which are substantially related to the qualifications, functions and duties of a real estate licensee.

5b. Imposition of sentence was suspended and Respondent was placed on three years formal probation, and ordered to serve eight months jail time and to pay fines and penalties of \$400. Respondent's sentence was stayed from January 2001, through July, 2003, while appeals and writs were pending. Respondent served his jail time by home release with electronic monitoring beginning in December, 2003. On September 10, 2004, by order of the Superior Court pursuant to Penal Code section 17, subdivision (b)(5), the charges to which Respondent pleaded guilty were reduced from felonies to misdemeanors. On that same date, pursuant to Penal Code section 1203.3, Respondent's probation was terminated, his convictions were set aside and pleas of not guilty were entered; the case was then dismissed pursuant to Penal Code section 1203.4.

5c. The facts and circumstances surrounding the convictions were not established by the evidence at this administrative hearing.

¹ It was stipulated between the parties that Respondent Johnny Koo and defendant Jae Kyung Koo are one and the same.

Rehabilitation/Mitigation

6. Respondent did not intend to conceal his 1999 and 2000 convictions from the Department. With respect to the 1999 conviction, Respondent misunderstood the baseline calculation. Because the crime underlying that conviction occurred in 1997, Respondent wrongly concluded that the 1999 conviction was not within the four-year "look-back" provision of Question 3 on the May 2002 renewal application. With respect to his 2000 convictions, Respondent believed that those convictions were not yet final and a legal fact because, at the time of his response to Question 3 in 2002, there were still pending appeals and writs pertaining to the 2002 convictions.

7. Respondent works as a real estate salesperson for Benjamin Huh, his supervising broker. He specializes in business and commercial sales. Respondent has revealed to Mr. Huh his convictions and his failure to disclose his convictions on his renewal application. Respondent has apologized to Mr. Huh for his crimes and failure to disclose those crimes to the Department, and Mr. Huh has written a letter of support on Respondent's behalf, promising the Department that, if Respondent is allowed to maintain his license, Mr. Huh will personally closely supervise Respondent's licensed activities.

8. Respondent is active in the Korean and Korean-American communities. He has worked with the Korean Association, helping elders, the homeless and other persons in need. He has also been actively involved with the Korean American Federation of Los Angeles, assisting board members with community outreach and fund-raising. Respondent volunteers at major community events, and has donated food and entertainment for elders at the Korean New Year celebration for over ten years. He has particular experience in assisting new immigrants with housing, utilities and other necessary services.

9. Respondent's license has not been previously disciplined.

10. Respondent is remorseful for his careless and erroneous response to Question 3. He feels that his major mistake was in not asking for his broker's advice or assistance in how to calculate the time periods applicable to his crimes. He feels he has paid a heavy price and incurred substantial risk in his failure to take that precaution. Respondent was credible and persuasive in his testimony of regret and assurance that he will not again run the risk of similar mistaken assumptions.

CONCLUSIONS OF LAW

1. Cause exists to revoke Respondent's real estate salesperson license, pursuant to Business and Professions Code section 10177, subdivision (a), in that Respondent made a material misstatement of fact in an application for a real estate license, as set forth in Factual

Findings 3, 4a and 5a. Complete and accurate disclosure of the requested information in an application is essential in order for the Department to evaluate the applicant. Therefore, the language of the statute establishes grounds for denial even where the misstatement of fact was unintentional, as in this case.

2. Cause does not exist to suspend or revoke Respondent's real estate salesperson license pursuant to Business and Professions Code section 498 in that Respondent did not knowingly make a misrepresentation of material fact or knowingly omit a material fact in his application for renewal of his license, as set forth in Factual Findings 3a, 4a, 5a and 6.²

ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

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


² Since Respondent's convictions were not alleged as a basis for discipline, the rehabilitation criteria under California Code of Regulations, title 17, section 2912, need not be analyzed.

(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 exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. 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 an 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 the 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: January 17, 2006



CHRISTINE C. McCALL
Administrative Law Judge
Office of Administrative Hearings

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7

FILED
APR 21 2005
DEPARTMENT OF REAL ESTATE
[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-31855 LA
12 JOHNNY KOO,)
13 Respondent.)
14)

15 The Complainant, Janice A. Waddell, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JOHNNY KOO, alleges as follows:

18 I

19 The Complainant, Janice A. Waddell, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation in
21 her official capacity.

22 II

23 JOHNNY KOO (hereinafter referred to as "Respondent.") is
24 presently licensed and/or has license rights under the Real
25 Estate Law (part 1 of Division 4 of the Business and Professions
26 Code, hereinafter referred to as the "Code").

27 ///

1 III

2 Respondent was licensed by the Department of Real
3 Estate of the State of California as a real estate salesperson
4 from April 20, 1989, through June 12, 2002. Respondent renewed
5 his license effective June 13, 2002.

6 IV

7 In response to Question 3 of Respondent's renewal
8 application filed with the Department on May 3, 2002, to wit,
9 "Within the past four year period, have you been convicted of any
10 violation of law?", Respondent answered "No".

11 V

12 On or about July 16, 1999, in the Superior Court of
13 California, County of Los Angeles, in Case No. BA181979,
14 Respondent was convicted of violating Penal Code Section 245(a)
15 (assault with a deadly weapon).

16 VI

17 On or about September 8, 2000, in the Superior Court of
18 California, County of Los Angeles, Case No. BA200999, Respondent
19 was convicted of violating Penal Code Section 182(a) (conspire to
20 commit a crime), Revenue and Taxation Code Section 7153.5 (filing
21 false tax return), and Revenue and Taxation Code Section 19705(a)
22 (filing false tax return).

23 VII

24 The crimes of which Respondent was convicted bear a
25 substantial relationship to the qualifications, functions, or
26 duties of a real estate licensee.

27

VIII

1 Respondent's failure to disclose the matters set forth
2 in Paragraphs V and VI, above, in said application constitutes
3 the procurement of a real estate salesperson license by
4 misrepresentation, fraud, or deceit, or by making a material
5 misstatement of fact in said application, or by knowingly making
6 a false statement of fact required to be revealed in said
7 application, which failure is cause under Sections 498 and
8 10177(a) of the Code for suspension or revocation of all licenses
9 and license rights of Respondent under the Real Estate Law.
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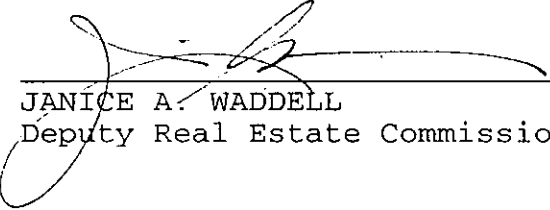
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 JOHNNY KOO under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.

8 Dated at Los Angeles, California

9 this 20 day of April, 2005.

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12 
13 JANICE A. WADDELL
14 Deputy Real Estate Commissioner
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17

18 cc: Johnny Koo
19 Benjamin M. K. Huh
20 Janice A. Waddell
21 Sacto.
22 LM
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