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FILED  
SEP 05 2006

DEPARTMENT OF REAL ESTATE

By *Juan Armenta*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) No. H-28369 LA  
MARVIN JOHN MCKINNON, )  
Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On October 18, 2000, a Decision After Rejection was issued herein revoking the real estate salesperson license of Respondent effective November 14, 2000, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on November 14, 2000. Respondent has operated as a restricted licensee since that time.

On December 28, 2005, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof. Respondent has  
3 demonstrated to my satisfaction that Respondent meets the  
4 requirements of law for the issuance to Respondent of an  
5 unrestricted real estate salesperson license and that it would  
6 not be against the public interest to issue said license to  
7 Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 petition for reinstatement is granted and that a real estate  
10 salesperson license be issued to Respondent if Respondent  
11 satisfies the following conditions within nine (9) months from  
12 the date of this Order:

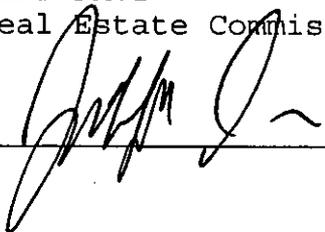
13 1. Submittal of a completed application and payment of  
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, 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.

20 This Order shall be effective immediately.

21 DATED: 8-16-06

22 JEFF DAVI  
23 Real Estate Commissioner

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**FILED**  
OCT 25 2000  
DEPARTMENT OF REAL ESTATE

By C.B.

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
MARVIN JOHN MCKINNON,	) NO. H-28369 LA
Respondent.	) L-2000020357

DECISION AFTER REJECTION

This matter came on for hearing before Deborah Myers-Young, Administrative Law Judge Pro Tem of the Office of Administrative Hearings at Los Angeles, California, on May 12, 2000.

Darlene Averetta, Counsel, represented the Complainant. The Respondent appeared in person and was represented by Noel W. Seaman, Attorney at Law.

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

On June 10, 2000, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein.

1 Pursuant to Section 11517(c) of the Government Code  
2 of the State of California, Respondent was served with notice  
3 of my determination not to adopt the Proposed Decision of the  
4 Administrative Law Judge along with a copy of said Proposed  
5 Decision. Respondent was notified that the case would be decided  
6 by me upon the record, the transcript of proceedings held on  
7 May 12, 2000, and upon any written argument offered by Respondent  
8 and Complainant.

9 On July 21, 2000 and September 5, 2000, argument was  
10 submitted by Respondent. On September 19, 2000, argument was  
11 submitted on behalf of Complainant.

12 I have given careful consideration to the record in  
13 this case including the transcript of proceedings of May 12,  
14 2000. I have also considered the argument submitted by  
15 Respondent and the argument submitted by Complainant.

16 The following shall constitute the Decision of the Real  
17 Estate Commissioner in this proceeding.

18 FACTUAL FINDINGS

19 I have determined that factual findings of the Proposed  
20 Decision of the Administrative Law Judge dated June 10, 2000, are  
21 appropriate and they are adopted as the Factual Findings of the  
22 Real Estate Commissioner in this proceeding.

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H 28369 LA

OAH No.: L 2000020357

MARVIN JOHN MCKINNON,  
Respondent

**PROPOSED DECISION**

On May 12, 2000 in Los Angeles, California, Deborah Myers-Young, Administrative Law Judge Pro Tem, Office of Administrative Hearings, heard this matter.

Complainant, Thomas McCrady, Deputy Real Estate Commissioner of the State of California, was represented by Darlene Averetta, Staff Counsel.

Respondent, Marvin McKinnon, ("Respondent"), was present and was represented by Noel W. Seaman, Attorney at Law.

At the outset of Respondent's case, Respondent's counsel moved to dismiss the Accusation. The ruling was taken under submission. The motion is hereby denied on the procedural grounds that no provision for dismissal, as requested by Respondent, is provided under the Administrative Procedure Act.

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

**FACTUAL FINDINGS**

The Administrative Law Judge Pro Tem makes the following factual findings:

1. The Accusation was filed by Thomas McCrady, Deputy Real Estate Commissioner of the State of California, acting in his official capacity.
2. Respondent has been licensed as a real estate salesperson since March 28, 1986. His license will expire on March 27, 2002 unless renewed.
3. On November 9, 1998, Respondent was convicted on his guilty plea, in the United States District Court, Central District of California, Docket No. CR-98-1082, of violating

two counts of 26 U.S.C. section 7203 (Willful failure to file individual income tax return), a Class A misdemeanor involving moral turpitude and one substantially related to the qualifications, functions and duties of a real estate licensee.

4. Respondent was sentenced to five years probation and was ordered to serve nine months in home detention. He was also ordered to pay the cost of the electronic monitoring. He was ordered to serve 500 hours of community service. He was ordered to provide his probation officer a signed release authorizing credit checks, and to provide documentation of all sources and amounts of his income. He was ordered to refrain from applying for any loans or lines of credit without the consent of his probation officer. He was further ordered to file timely tax returns, and to pay the arrears of unpaid taxes in such amounts and at such times as designated by his probation officer during the period of supervision.

5. The facts and circumstances of the underlying conviction are that Respondent did not file tax returns for the years 1986, 1987, 1988, 1989, and 1990 until he was contacted by the IRS in 1992. He then hired an accountant, who organized Respondent's numerous boxes of financial documents, and prepared the tax returns for those years in question sometime in late 1992. Respondent's 1991 return was timely filed in 1992. During the period in question, Respondent was working as a truck driver for the U.S. Borax Corporation, and began selling real estate. He worked long hours and slept very little. He quit working as a truck driver in 1988. He began purchasing rental properties for his own investment purposes, and estimates that he owned ten properties by 1991. Respondent, a high school graduate, became overwhelmed with the paperwork involved in establishing his income and expenses, and did not file tax returns for those years. Instead, he filed yearly, but not quarterly, estimated taxes for the years 1987, 1988, 1989 and 1990. He filed automatic extensions for those years, but did not follow up with additional extensions. Respondent did not allow himself the time to deal with his tax returns, as he did not consider it a high enough priority.

6. When Respondent filed his income tax returns, the returns did not reflect his full income for three years, including 1989, for which he underreported a \$ 150,000.00 commission. Respondent had a contract with the Antelope Valley Unified School District, and his broker did not receive commissions or otherwise keep track of his income with respect to those dealings. His broker did authorize those escrows, however. As a result, the 1099s the broker prepared did not reflect Respondent's true income. His broker accepted responsibility for this failure. Respondent did not review his tax returns for those years before he signed them. He believed them to be correct at the time.

7. The U.S. Treasury Department investigated Respondent from 1994 to 1998. By November 1998, a plea bargain was reached with the Department of Justice and Respondent pled guilty to two misdemeanor counts of willful failure to file tax returns. Respondent never admitted to willfully underreporting his income.

8. Respondent's 1991 income tax return and the income tax returns for all years since then have been timely filed. Respondent now works as an employee at a real estate office, and his employer withholds his taxes.

9. Respondent completed his in home detention. He has completed 428 of 500 hours of community service. He paid a \$ 2,000.00 fine, and his restitution as ordered by the IRS and his probation officer.

10. Respondent has an otherwise unblemished record with the Department of Real Estate. Respondent volunteered at the Antelope Valley Board of Realtors, and was elected President in 1995. He served on the Professional Standards Committee for seven years. He has served as Director of the local California Association of Realtors for seven years, and served as Regional Vice President in 1997. Respondent has established a strong reputation in the community, and was voted "Antelope Valley's Best Realtor" by a local newspaper poll. He is a Certified Residential Specialist, and a Graduate of Realtor Institute.

### LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge Pro Tem makes the following Legal Conclusions.

1. Cause exists to suspend or revoke Respondent's license to act as a real estate salesperson under Business and Profession Code sections 490 and 10177(b) for having been convicted of a crime which is substantially related to the qualifications, functions and duties of a real estate licensee as set forth in Findings 3, 4, 5, 6 and 7.

Respondent's 1998 federal criminal conviction is a serious violation of law which goes to the very heart of real estate transactions. The accuracy and responsibility of a real estate agent is of paramount importance in all real estate transactions, including the timely filing of U.S. tax returns. A salesperson must be trusted to provide truthful, accurate and timely information and financial figures to the real estate buying and selling public, and to the financial lending industry. "Honesty and integrity are deeply and daily involved in various aspects of the [real estate] practice." Golde v. Fox, (1979) 98 Cal.App.3d 167, at 176. "A real estate broker often acts in a confidential and fiduciary capacity for his clientele." Ibid., at 177-178.

Respondent has shown a serious inability to properly manage important financial details relating to the real estate industry by his failure to file individual tax returns which led to his 1998 criminal conviction. He has exhibited a willingness to intentionally violate the law for the sake of his convenience. He has failed to live up to his responsibilities as a taxpayer and a real estate salesperson.

However, Respondent provided sufficient evidence to establish substantial rehabilitation since the unlawful acts and later conviction. More than nine years have passed since the most recent unlawful act, although only a year and a half has passed since the criminal conviction. Respondent corrected his former business practices over seven and a half years ago, and has ended his status as an independent contractor so that his employer now withholds his taxes. However, while this will make it easier for Respondent to prepare a timely tax return and pre-pay sufficient estimated taxes, it does not make him more socially responsible or less of a risk to the public. Respondent has volunteered and served at his local Board of Realtors in several leadership roles, including president.

Nonetheless, discipline is warranted in this case due to the seriousness of Respondent's conviction, and the fact that insufficient time has passed since the conviction for Respondent to establish that he is fully rehabilitated. Therefore, the public interest should be adequately protected with the following order:

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**ORDER****WHEREBY THE FOLLOWING ORDER is hereby made:**

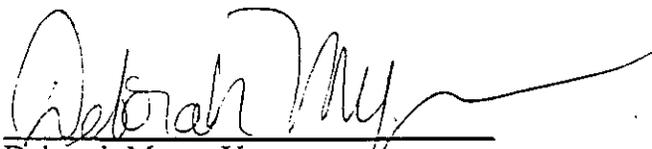
All licenses and licensing rights of Respondent Marvin John McKinnon under the Real Estate Law are hereby revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application 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 not for the removal of any of the conditions, limitations or restrictions of a restricted license until five 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:
  - (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.

Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including

the payment of the appropriate examination fee. If Respondent fails to satisfy this condition,  
the Commissioner may order suspension of Respondent's license until Respondent passes the  
examination.

Date: June 10, 2000

A handwritten signature in black ink, appearing to read "Deborah Myers-Young", written over a horizontal line.

Deborah Myers-Young  
Administrative Law Judge Pro Tem  
Office of Administrative Hearings

FILED  
JUL - 7 2000  
DEPARTMENT OF REAL ESTATE

By CS

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

In the Matter of the Accusation of )  
MARVIN JOHN MC KINNON, ) No. H-28369 LA  
Respondent. ) L-2000020357

NOTICE

TO: Respondent MARVIN JOHN MC KINNON and NOEL W. SEAMAN, his  
Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision  
herein dated June 10, 2000, of the Administrative Law Judge is  
not adopted as the Decision of the Real Estate Commissioner. A  
copy of the Proposed Decision dated June 10, 2000, 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 May 12,

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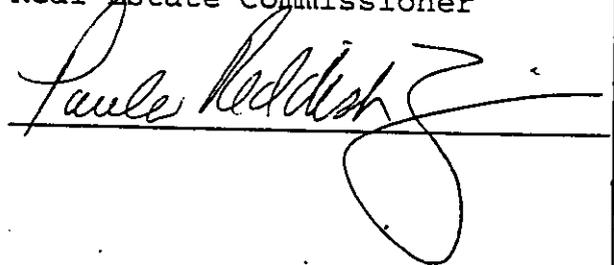
1 2000, and any written argument hereafter submitted on behalf of  
2 Respondent and Complainant.

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 May 12, 2000, at the Los Angeles office of  
6 the Department of Real Estate unless an extension of the time is  
7 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 29, 2000

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15 PAULA REDDISH ZINNEMANN  
16 Real Estate Commissioner

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H 28369 LA

OAH No.: L 2000020357

MARVIN JOHN MCKINNON,  
Respondent

**PROPOSED DECISION**

On May 12, 2000 in Los Angeles, California, Deborah Myers-Young, Administrative Law Judge Pro Tem, Office of Administrative Hearings, heard this matter.

Complainant, Thomas McCrady, Deputy Real Estate Commissioner of the State of California, was represented by Darlene Averetta, Staff Counsel.

Respondent, Marvin McKinnon, ("Respondent"), was present and was represented by Noel W. Seaman, Attorney at Law.

At the outset of Respondent's case, Respondent's counsel moved to dismiss the Accusation. The ruling was taken under submission. The motion is hereby denied on the procedural grounds that no provision for dismissal, as requested by Respondent, is provided under the Administrative Procedure Act.

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

**FACTUAL FINDINGS**

The Administrative Law Judge Pro Tem makes the following factual findings:

1. The Accusation was filed by Thomas McCrady, Deputy Real Estate Commissioner of the State of California, acting in his official capacity.
2. Respondent has been licensed as a real estate salesperson since March 28, 1986. His license will expire on March 27, 2002 unless renewed.
3. On November 9, 1998, Respondent was convicted on his guilty plea, in the United States District Court, Central District of California, Docket No. CR-98-1082, of violating

two counts of 26 U.S.C. section 7203 (Willful failure to file individual income tax return), a Class A misdemeanor involving moral turpitude and one substantially related to the qualifications, functions and duties of a real estate licensee.

4. Respondent was sentenced to five years probation and was ordered to serve nine months in home detention. He was also ordered to pay the cost of the electronic monitoring. He was ordered to serve 500 hours of community service. He was ordered to provide his probation officer a signed release authorizing credit checks, and to provide documentation of all sources and amounts of his income. He was ordered to refrain from applying for any loans or lines of credit without the consent of his probation officer. He was further ordered to file timely tax returns, and to pay the arrears of unpaid taxes in such amounts and at such times as designated by his probation officer during the period of supervision.

5. The facts and circumstances of the underlying conviction are that Respondent did not file tax returns for the years 1986, 1987, 1988, 1989, and 1990 until he was contacted by the IRS in 1992. He then hired an accountant, who organized Respondent's numerous boxes of financial documents, and prepared the tax returns for those years in question sometime in late 1992. Respondent's 1991 return was timely filed in 1992. During the period in question, Respondent was working as a truck driver for the U.S. Borax Corporation, and began selling real estate. He worked long hours and slept very little. He quit working as a truck driver in 1988. He began purchasing rental properties for his own investment purposes, and estimates that he owned ten properties by 1991. Respondent, a high school graduate, became overwhelmed with the paperwork involved in establishing his income and expenses, and did not file tax returns for those years. Instead, he filed yearly, but not quarterly, estimated taxes for the years 1987, 1988, 1989 and 1990. He filed automatic extensions for those years, but did not follow up with additional extensions. Respondent did not allow himself the time to deal with his tax returns, as he did not consider it a high enough priority.

6. When Respondent filed his income tax returns, the returns did not reflect his full income for three years, including 1989, for which he underreported a \$ 150,000.00 commission. Respondent had a contract with the Antelope Valley Unified School District, and his broker did not receive commissions or otherwise keep track of his income with respect to those dealings. His broker did authorize those escrows; however, as a result, the 1099s the broker prepared did not reflect Respondent's true income. His broker accepted responsibility for this failure. Respondent did not review his tax returns for those years before he signed them. He believed them to be correct at the time.

7. The U.S. Treasury Department investigated Respondent from 1994 to 1998. By November 1998, a plea bargain was reached with the Department of Justice and Respondent pled guilty to two misdemeanor counts of willful failure to file tax returns. Respondent never admitted to willfully underreporting his income.

8. Respondent's 1991 income tax return and the income tax returns for all years since then have been timely filed. Respondent now works as an employee at a real estate office, and his employer withholds his taxes.

9. Respondent completed his in home detention. He has completed 428 of 500 hours of community service. He paid a \$ 2,000.00 fine, and his restitution as ordered by the IRS and his probation officer.

10. Respondent has an otherwise unblemished record with the Department of Real Estate. Respondent volunteered at the Antelope Valley Board of Realtors, and was elected President in 1995. He served on the Professional Standards Committee for seven years. He has served as Director of the local California Association of Realtors for seven years, and served as Regional Vice President in 1997. Respondent has established a strong reputation in the community, and was voted "Antelope Valley's Best Realtor" by a local newspaper poll. He is a Certified Residential Specialist, and a Graduate of Realtor Institute.

### LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge Pro Tem makes the following Legal Conclusions.

1. Cause exists to suspend or revoke Respondent's license to act as a real estate salesperson under Business and Profession Code sections 490 and 10177(b) for having been convicted of a crime which is substantially related to the qualifications, functions and duties of a real estate licensee as set forth in Findings 3, 4, 5, 6 and 7.

Respondent's 1998 federal criminal conviction is a serious violation of law which goes to the very heart of real estate transactions. The accuracy and responsibility of a real estate agent is of paramount importance in all real estate transactions, including the timely filing of U.S. tax returns. A salesperson must be trusted to provide truthful, accurate and timely information and financial figures to the real estate buying and selling public, and to the financial lending industry. "Honesty and integrity are deeply and daily involved in various aspects of the [real estate] practice." Golde v. Fox, (1979) 98 Cal.App.3d 167, at 176. "A real estate broker often acts in a confidential and fiduciary capacity for his clientele." Ibid., at 177-178.

Respondent has shown a serious inability to properly manage important financial details relating to the real estate industry by his failure to file individual tax returns which led to his 1998 criminal conviction. He has exhibited a willingness to intentionally violate the law for the sake of his convenience. He has failed to live up to his responsibilities as a taxpayer and a real estate salesperson.

However, Respondent provided sufficient evidence to establish substantial rehabilitation since the unlawful acts and later conviction. More than nine years have passed since the most recent unlawful act, although only a year and a half has passed since the criminal conviction. Respondent corrected his former business practices over seven and a half years ago, and has ended his status as an independent contractor so that his employer now withholds his taxes. However, while this will make it easier for Respondent to prepare a timely tax return and pre-pay sufficient estimated taxes, it does not make him more socially responsible or less of a risk to the public. Respondent has volunteered and served at his local Board of Realtors in several leadership roles, including president.

Nonetheless, discipline is warranted in this case due to the seriousness of Respondent's conviction, and the fact that insufficient time has passed since the conviction for Respondent to establish that he is fully rehabilitated. Therefore, the public interest should be adequately protected with the following order:

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## ORDER

### WHEREBY THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Marvin John McKinnon under the Real Estate Law are hereby 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 not for the removal of any of the conditions, limitations or restrictions of a restricted license until five 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:

(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.

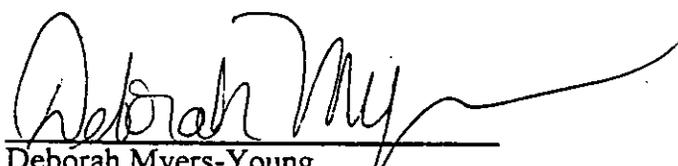
Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including

NOT RECAPTURED

NOT RECORDED

the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

Date: June 10, 2000



Deborah Myers-Young  
Administrative Law Judge Pro Tem  
Office of Administrative Hearings

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of )  
MARVIN JOHN MCKINNON, )  
\_\_\_\_\_ )

Case No. H-28369 LA

OAH No. L-2000020357

Respondent(s)

FILED  
MAR 23 2000  
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

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 FRIDAY, MAY 12, 2000, at the hour of 10:00 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: March 23, 2000

By

[Signature]  
DARLENE AVERETTA, Counsel

cc: Marvin John McKinnon  
Advantage Realty of AV, Inc.  
Sacto.  
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of ) Case No. H-28369 LA  
)  
MARVIN JOHN MCKINNON, ) OAH No. L-2000020357  
)  
\_\_\_\_\_)  
Respondent(s)

FILED  
MAR - 1 2000  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By CS

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, MARCH 21, 2000, at the hour of 1:30 P.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

*Darlene Averetta*

Dated: March 1, 2000

By

DARLENE AVERETTA, Counsel

cc: Marvin John McKinnon  
Advantage Realty of AV, Inc.  
Sacto.  
OAH

1 DARLENE AVERETTA, Counsel  
2 State Bar No. 159969  
3 Department of Real Estate  
4 320 W. Fourth St., Suite 350  
5 Los Angeles, California 90013-1105

6 Telephone: (213) 576-6982  
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**FILED**  
JAN 25 2000  
DEPARTMENT OF REAL ESTATE

By COJ

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) NO. H-28369 LA  
12 MARVIN JOHN McKINNON, ) ACCUSATION  
13 Respondent. )  
14 \_\_\_\_\_ )

15 The Complainant, Thomas McCrady, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against MARVIN JOHN McKINNON (hereinafter "Respondent"), alleges  
18 as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Accusation  
22 in his official capacity.

23 II

24 Respondent is presently licensed and/or has license  
25 rights under the Real Estate Law, Part 1 of Division 4 of the  
26 California Business and Professions Code (hereinafter "Code"),  
27 as a real estate salesperson.



III

1 Respondent was originally licensed by the Department  
2 of Real Estate of the State of California (hereinafter  
3 "Department") as a real estate salesperson on or about March 28,  
4 1986.  
5

IV

6 On or about February 2, 1999, in the United States  
7 District Court, Central District of California, Respondent,  
8 MARVIN JOHN MCKINNON, aka Marvin J. McKinnon, was convicted  
9 on his plea of guilty of two counts of violating Title 26  
10 United States Code (U.S.C.) Section 7203 (Willful Failure to  
11 File Individual Income Tax Return). Said crime involves moral  
12 turpitude and bears a substantial relationship under Title 10,  
13 Chapter 6, Section 2910, California Code of Regulations, to the  
14 qualifications, functions or duties of a real estate licensee.  
15

V

16 The crime of which Respondent was convicted, as  
17 described in Paragraph IV, above, constitutes cause under  
18 Code Sections 490 and 10177(b) for suspension or revocation of  
19 Respondent's license and license rights under the Real Estate  
20 Law.

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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 MARVIN JOHN McKINNON, under the Real Estate Law (Part 1 of  
6 Division 4 of the Business and Professions Code), and for such  
7 other and further relief as may be proper under other applicable  
8 provisions of law.

9 Dated at Los Angeles, California  
10 this 25th day of January, 2000.

11  
12 THOMAS McCRADY  
13 Deputy Real Estate Commissioner  
14  
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21  
22

23 cc: Marvin John McKinnon  
24 Advantage Realty of AV, Inc.  
25 Thomas McCrady  
26 Sacto.  
27 MA

