

BEFORE THE  
DEPARTMENT OF REAL ESTATE

FILED  
NOV - 9 2000

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

\* \* \*

B: *Kathleen Contreras*

In the Matter of the Application of )  
TAMRA L. THOMAS, )  
Respondent. )

NO. H-7825 SF  
OAH NO. N-2000050208

DECISION

The Proposed Decision dated October 6, 2000, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

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

This Decision shall become effective at 12 o'clock noon on November 29, 2000.

IT IS SO ORDERED *October 19*, 2000.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

*Paula Reddish Zinnemann*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

TAMRA L. THOMAS

Respondent.

Case No. H-7825 SF

OAH No. N2000050208

**PROPOSED DECISION**

Administrative Law Judge Elizabeth A. Tippin, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on July 21, 2000.

Diedre L. Johnson, Counsel for the Department of Real Estate, represented complainant, Les R. Bettencourt, Deputy Real Estate Commissioner of the State of California.

Respondent Tamra L. Thomas was present and represented herself.

The record was held open in order to allow respondent to submit a letter of character reference from her sponsoring broker and for the Department to obtain a certified record of a conviction alleged to have occurred on or about October 25, 1988, in Concord Municipal Court.

A letter from respondent was received on August 10, 2000, and marked for identification as Exhibit B. Attached to respondent's letter was a letter from William Patrick Council, CPM, dated August 3, 2000, that was marked as Exhibit C and admitted into evidence as administrative hearsay. A letter from respondent with an attached newspaper article was received on August 17, 2000 and marked for identification as Exhibit D.

A letter brief from complainant's counsel was received on August 17, 2000, and marked for identification as Exhibit 8. A letter from Dennis N. Cross, Keeper of Records, for the State of California Department of Justice, Bureau of Criminal Information and Analysis with an attached Certificate identified as CII No. A07794377 was received in evidence as Exhibit 9.

The Declaration of Robert Foreman and the Concord Police Department Report CII Number A07794377, marked for identification during the hearing as the Exhibit 7, was admitted into evidence.

The record was closed and the matter deemed submitted on August 23, 2000.

## FACTUAL FINDINGS

1. On or about December 6, 1999, respondent Tamara L. Thomas made an application to the Department of Real Estate of the State of California for a real estate salesperson license pursuant to the provisions of section 10153.3 of the Business and Professions Code.

### The 1995 Conviction for Receiving Stolen Property

2. On or about January 5, 1995, in the Superior Court of the State of California, County of Alameda, respondent was convicted upon a plea of nolo contendere of receiving stolen property, a violation of subdivision (a) of section 496 of the California Penal Code. Receiving stolen property is a crime involving moral turpitude that bears a substantial relationship to the qualifications, functions, and duties of a real estate licensee under section 2910 of Title 10 of the California Code of Regulations.

3. The facts and circumstances that surround the 1995 conviction for receiving stolen property are as follows: On or about November 18, 1994, respondent was stopped while driving a vehicle by two police officers for speeding and malfunctioning tail lights. Respondent failed to produce a driver's license and vehicle registration upon request that led to a police search of the vehicle. The police officers found several stolen credit cards with different names, a driver's license that had been altered with respondent's picture, and several stolen purses and wallets. Respondent denied stealing the credit cards and the other items. However, respondent's denial was not persuasive.

4. Imposition of a sentence was suspended for a period of three years, and respondent was placed on probation. The terms of probation required respondent to serve two days in the Alameda County jail, pay a restitution fine of \$200.00 and a probation fee of \$100.00.

5. In December of 1995, respondent was arrested for possession of stolen property and found to be in violation of probation. Probation was revoked and respondent was sentenced to 30 days in the Santa Rita Jail, which she completed.

6. On or about October 15, 1999, the Alameda Superior Court granted a petition to reduce the felony to a misdemeanor, and set aside the conviction and dismiss the accusatory pleadings. Respondent was released from all penalties and disabilities resulting from the offense pursuant to section 1203.4 of the Penal Code.

### The 1988 Conviction for Petty Theft

7. On or about October 25, 1988, in Municipal Court of Contra Costa County, State of California, Case Number 114828-7, respondent was convicted upon a guilty plea to petty theft in violation of sections 484 and 666 of the California Penal Code. Petty theft is a crime involving moral turpitude that bears a substantial relationship to the qualifications,

functions, and duties of a real estate licensee under section 2910 of Title 10 of the California Code of Regulations.

8. The facts and circumstances that surround this conviction for petty theft are as follows: On or about August 4, 1988, respondent was with another woman at an Emporium –Capwell retail store. Respondent shoplifted a dress, placed it in a shopping bag and then exchanged the dress for a pair of jeans and \$6.39 in cash. Store security personnel arrested respondent. Respondent denied that she shoplifted the dress and stated that she received the stolen goods from someone else. However respondent's story was not convincing and is in direct contradiction to the police report. Respondent was sentenced to 2 years probation and 30 days in county jail.

#### The 1986 Conviction for Petty Theft

9. On or about July 22, 1986, in the Superior Court of the State of California, County of Alameda, respondent was convicted upon a guilty plea of petty theft in violation of section 484 of the California Penal Code. Petty theft is a crime involving moral turpitude that bears a substantial relationship to the qualifications, functions, and duties of a real estate licensee under section 2910 of Title 10 of the California Code of Regulations.

10. Respondent could not recall the facts and circumstances surrounding this conviction. However, judgment included three years probation with 20 days in county jail, which respondent completed through a work program.

#### Other Information

11. Respondent was primarily raised by her grandmother. She began using drugs at the age of sixteen and dropped out of high school. Respondent stated that she had a drug problem using crack cocaine and marijuana, but that she has been clean and sober since 1995. Respondent did not present any corroborating evidence of her drug problem or sobriety. Respondent stated that her prior drug problem was the primary cause of the behavior that led to her past convictions. Once again, respondent did not present any corroborating evidence. It is curious that she was gainfully employed with Chiron Corporation at the time of the credit card scheme yet purportedly had a drug problem.

12. Respondent stated that the 30 days that she spent in Santa Rita jail in 1995 had a profound effect on her. She was afraid, cried every day, obtained drug counseling and joined a church. A year later in 1996, respondent's mother passed away and in 1999 she had a son. Respondent stated that the combination of the jail time, her mother dying and particularly having a child led her to change her life in a positive direction. She acknowledged that her past behavior was wrong and she no longer associates with the people who had a negative effect on her, including the people with whom she participate in a stolen credit card scheme.

13. Respondent obtained her GED in 1983. She has taken classes toward an Associate of Arts Degree in Business Administration attending both Laney College from 1992 to 1994 and Chabot College from 1996 to 1997.

14. Respondent worked as an administrative assistant for Chiron Corporation, a biotechnology company, from 1994 to 1995. She lost her job when she went to the Santa Rita jail for the month in December of 1995. After she got out of jail, she worked as an administrative assistant for Genetech Corporation, a biotechnology company, until 1998 when she returned to work at Chiron Corporation. During her last tenure with Chiron, respondent took some time off to have a child. In May of 2000, respondent resigned to seek employment that would give her more flexibility to spend time with her son. She has since worked various jobs through a temporary agency and as a teacher's assistant at the Carter Middle School. Respondent presently is the sole support for her son, with some periodic support from the father of her son.

15. Respondent became interested in becoming a real estate salesperson when she responded to an advertisement for classes given by William Patrick Council. She completed the course work offered by Mr. Council and passed the real estate exam on the first attempt. Mr. Council is respondent's sponsoring broker. Respondent submitted positive character reference letters from Mr. Council; her former immediate supervisor with Chiron Corporation, Mr. Leander Lauffer, Ph.D., Division Vice President; and her sister-in-law, Donna Allen-Thomas.

#### LEGAL CONCLUSIONS

1. Under subsection (a) of section 480 and subdivision (b) of section 10177 of California Business and Professions Code, the Department of Real Estate may deny a license if the applicant has been convicted of a felony or a crime of moral turpitude that is substantially related to the qualifications, functions and duties of a real estate licensee. A conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Section 2910 of the California Code of Regulations establishes the criteria of substantial relationship to a real estate license. This section provides that a crime is substantially related to the qualifications, function or duties of a licensee if it involves the fraudulent taking of property belonging to another person; forging or altering of an instrument; the use of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end; or the 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.

2. By reason of the matters set forth in Factual Finding Number 2, cause exists for denial of respondent's application for a real estate license under subsection (a) of section 480 and subsection (b) of section 10177 of the California Business and Professions Code in that in 1995 respondent was convicted of receiving stolen property. This crime involves moral turpitude because it is a crime of dishonesty that is done for the personal gain or to defraud another. This crime is substantially related to the qualifications, functions and duties of

a real estate licensee in that it involves the fraudulent taking of property of another pursuant to section 2910 of the California Code of Regulations.

3. By reason of the matters set forth in Factual Finding Number 7, cause exists for denial of respondent's application for a real estate license under subsection (a) of section 480 and subsection (b) of section 10177 of the California Business and Professions Code, in that in 1988 respondent was convicted of petty theft. This crime involves moral turpitude because it is a crime of dishonesty that is done for the personal gain or to defraud another. This crime is substantially related to the qualifications, functions and duties of a real estate licensee in that it involves the fraudulent taking of property of another pursuant to section 2910 of the California Code of Regulations.

4. By reason of the matters set forth in Factual Finding Number 9, cause exists for denial of respondent's application for a real estate license under subsection (a) of section 480 and subsection (b) of section 10177 of the California Business and Professions Code, in that in 1986 respondent was convicted of a violation of section 484 of the California Penal Code, petty theft. This crime involves moral turpitude because it is a crime of dishonesty that is done for the personal gain or to defraud another. This crime is substantially related to the qualifications, functions and duties of a real estate licensee in that it involves the fraudulent taking of property of another pursuant to section 2910 of the California Code of Regulations.

5. Section 482 of the California Business and Professions Code and section 2911 of the Code of Regulations provides the criteria for evaluating the rehabilitation of an applicant. While respondent has made progress toward meeting the criteria for rehabilitation, the rehabilitation process does not appear to be complete.

Respondent has shown that she has made some progress toward rehabilitation. She has paid all restitution and fines ordered, and she has completed all other terms and conditions of probation. The 1995 conviction for possession of stolen property has been set aside. Respondent has also shown a change in attitude from that which existed at the time of the conduct in question. She has new social relationships than those that existed at the time of the conduct as evidenced by her testimony and the letters of reference submitted by her sponsoring broker, and the letters of reference from Leander Lauffer of Chiron Corporation, and Donna Allen-Thomas, respondent's sister-in-law. Respondent has completed college level courses toward a Bachelor's Degree; she has had regular employment and fulfilled parental responsibilities subsequent to the convictions.


Despite this substantial rehabilitation, it appears too early to determine if respondent is fully rehabilitated. It has been more than two years since respondent's most recent conviction; however, a longer period of time is required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department. In this regard, respondent has shown a history of public offenses that relate to the qualifications, functions and duties of a licensee of the Department that extends from 1986 through 1995 when respondent violated probation and was sentenced to 30 days in the Santa Rita Jail.

In addition, respondent's lack of candor about her participation in the petty theft offense at Emporium-Capwell and her participation in the conspiracy to utilize stolen credit cards is troubling. This demonstrates that respondent has not fully completed the rehabilitation process at this time. For these reasons, it would be contrary to the public interest to issue respondent a real estate license even on a restricted basis.

ORDER

Respondent Tamara L. Thomas's application for a real estate salesperson's license is denied.

DATED: October 6, 2000

  
ELIZABETH A. TIPPIX  
Administrative Law Judge  
Office of Administrative Hearings

FILED  
MAY - 9 2000

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

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In the Matter of the Application of

TAMRA L. THOMAS,

Case No. H-7825 SF

OAH No. \_\_\_\_\_

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the \_\_\_\_\_  
Office of Administrative Hearings, 1515 Clay Street, Suite 206,  
Oakland, CA 94612

on Friday, July 21, 2000, at the hour of 9:00 AM,  
or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place  
of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within  
ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days  
will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You  
are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent  
yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the  
Department may take disciplinary action against you based upon any express admission or other evidence including  
affidavits, without any notice to you.

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

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses  
testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the  
production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who  
does not proficiently speak the English language, you must provide your own interpreter and pay for his or her costs.  
The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: May 9, 2000

By *Deidre L. Johnson*  
DEIDRE L. JOHNSON Counsel



1 DAVID A. PETERS, Counsel (SBN 99528)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0781 (Direct)

FILED  
MAY - 2 2000

DEPARTMENT OF REAL ESTATE

*Lucie A. Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Application of	)	No. H-7825 SF
12 TAMRA L. THOMAS,	)	<u>STATEMENT OF ISSUES</u>
13 Respondent.	)	

14  
15 The Complainant, Les R. Bettencourt, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against TAMRA L. THOMAS aka Tamra Letise Thomas  
18 (hereinafter "Respondent") alleges as follows:

19 I

20 Respondent, pursuant to the provisions of Section  
21 10153.3 of the Business and Professions Code, made application to  
22 the Department of Real Estate of the State of California for a  
23 real estate salesperson license on or about December 6, 1999 with  
24 the knowledge and understanding that any license issued as a  
25 result of said application would be subject to the conditions of  
26 Section 10153.4 of the Business and Professions Code.

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II

Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

III

On or about January 5, 1995, in the Superior Court of the State of California, County of Alameda, Respondent was convicted of a violation of Section 496(a) of the California Penal Code (Receiving Stolen Property), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

On or about July 22, 1986, in the Superior Court of the State of California, County of Alameda, Respondent was convicted of a violation of Section 484 of the California Penal Code (Petty Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

On or about October 25, 1988, in the Coordinated Trial Courts, Contra Costa County-Walnut Creek-Danville Judicial District, State of California, Respondent was convicted of a violation of Section 484/666 of the California Penal Code (Petty Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California

1 Code of Regulations, to the qualifications, functions or duties  
2 of a real estate licensee.

3 VI

4 The crimes of which Respondent was convicted, as  
5 alleged in Paragraphs III, IV, and V above, constitute cause for  
6 denial of Respondent's application for a real estate license  
7 under Sections 480(a) and 10177(b) of the California Business and  
8 Professions Code.

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

15 

16 LES R. BETTENCOURT  
17 Deputy Real Estate Commissioner

18 Dated at Oakland, California,  
19 this 1st day of May, 2000.