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FILED  
FEB 10 2008

DEPARTMENT OF REAL ESTATE

By Juan Antonio

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of ) No. H-8131 SF  
THOMAS LESLEY GORE, )  
Respondent. )

ORDER GRANTING UNRESTRICTED LICENSE

On December 3, 2002, a Decision was rendered herein denying the Respondent's application for real estate salesperson license, 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 January 29, 2003, and Respondent has operated as a restricted licensee since that time.

On June 10, 2005, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's Petition and the evidence submitted in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to  
2 my satisfaction that Respondent meets the requirements of law for  
3 the issuance to Respondent of an unrestricted real estate  
4 salesperson license and that it would not be against the public  
5 interest to issue said license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's  
7 petition for removal of restrictions is granted and that a real  
8 estate salesperson license be issued to Respondent subject to the  
9 following understanding and conditions:

10 1. The license issued pursuant to this order shall be  
11 deemed to be the first renewal of respondent's real estate  
12 salesperson license for the purpose of applying the provisions of  
13 Section 10153.4.

14 2. Within nine (9) months from the date of this order  
15 respondent shall:

16 (a) Submit a completed application and pay the  
17 appropriate fee for a real estate salesperson license, and

18 (b) Submit evidence of having taken and successfully  
19 completed the courses specified in subdivisions (a) (1), (2), (3)  
20 and (4) of Section 10170.5 of the Real Estate Law for renewal of  
21 a real estate license.

22 3. Upon renewal of the license issued pursuant to this  
23 order, respondent shall submit evidence of having taken and  
24 successfully completed the continuing education requirements of  
25 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a  
26 real estate license.

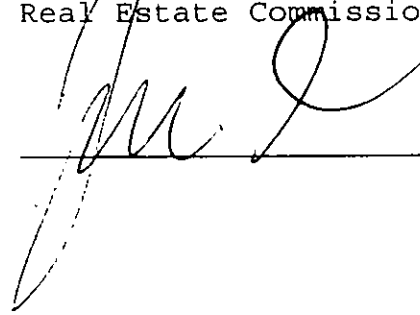
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This Order shall become effective immediately.

DATED: 2/9/86

JEFF DAVI  
Real Estate Commissioner

A large, stylized handwritten signature, likely of Jeff Davi, is written over the printed name and title. The signature is in dark ink and is quite fluid, with a long horizontal stroke extending to the left.

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

FILED  
DEC 10 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of )  
THOMAS LESLEY GORE, )  
Respondent. )

By Paula Reddish  
NO. H-8131 SF  
OAH NO. N-2002070345

DECISION

The Proposed Decision dated November 6, 2002, 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, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon  
on DECEMBER 30, 2002.

IT IS SO ORDERED

December 3, 2002.

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner

Paula Reddish

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

THOMAS LESLEY GORE,

Respondent.

Case No. H-8131 SF

OAH No. N2002070345

**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on September 20, 2002.

David A. Peters, Real Estate Counsel, represented complainant Les R. Bettencourt, Deputy Real Estate Commissioner.

Stephen W. Thomas Attorney at Law represented respondent Thomas Lesley Gore, who was present.

The matter was submitted on September 20, 2002.

**FACTUAL FINDINGS**

1. Complainant Les R. Bettencourt made and filed the statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California, Department of Real Estate (Department).

2. Respondent Thomas Leslie Gore made application to the Department for a real estate license on or about November 29, 2001. He did so with the understanding that any license issued as a result of his application would be subject to the conditions of Business and Professions Code section 10153.4

3. Respondent answered "No" to Question No. 25 of the application, which asked him:

Have you ever been convicted of any violation of law?  
Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic violations which do not constitute a misdemeanor or felony offense.

Respondent signed the application under penalty of perjury certifying that the answers and statements he gave therein were true and correct.

4. On or about April 9, 1997, respondent was convicted in the Municipal Court of the State of California, County of Contra Costa, on his plea of guilty to misdemeanor offenses of driving under the influence of alcohol (Veh. Code, § 233152(a)) and hit and run with property damage (Veh. Code, § 20002(a)).

Imposition of sentence was suspended and respondent was placed on three years probation. Respondent was ordered to pay a fine of \$1,190 and a restitution fine of \$100, and to attend a Level 1 First Offender Drinking Driver's program. Respondent complied with all terms and conditions of probation and probation has been terminated.

5. Both offenses set forth in Finding 4 occurred on January 31, 1997. During the evening respondent and a friend drank alcohol at home. The friend drove the two of them to a bar where they consumed more alcohol, and then to a convenience store to purchase alcohol. After completing the alcohol purchase respondent took the wheel and drove the automobile. While driving respondent fell asleep and hit a fire hydrant which he "took out." Respondent kept driving and was pulled over by a police officer who had observed the accident. Respondent was so intoxicated that he does not remember the accident.

6. Each offense demonstrates an exercise of extremely poor judgment and constituted a serious breach of the duty owed to society. Respondent's conduct indicated a willingness to put others, including the passenger in the car, in serious risk of physical injury. As committed, each offense involves moral turpitude.

7. With regard to the application, respondent believed his convictions were traffic offenses rather than misdemeanors. He now understands that he was mistaken. Respondent did not intend to mislead the Department, his intent was to answer the application truthfully.

8. Respondent has had many vocations. Equity Funding Company has employed respondent for the last two years in telemarketing sales and assistant to the broker, Jeff K. Zimmerman. Zimmerman attests that respondent has a strong work ethic and is a person of honesty and integrity. Zimmerman would like to employ respondent in a licensed capacity.

Respondent is a licensed painting contractor, and has worked in the construction field for many years. From October of 1999 to February of 2001 respondent was employed as a crew foreman for Toupin Construction Company. Tim Toupin attests that respondent was a professional and courteous crew foreman. A former client, Dennis O'Brien, Attorney at Law, has known respondent for four or five years. In his opinion respondent is trustworthy and honest.

Prior to obtaining his contractor's license, respondent attended Quest Community College and obtained a certification in welding. He thereafter worked in fabrication shops inside state prisons.

9. Respondent is single. He has an eight-year-old son for whom he provides financial support. Respondent is very active in his son's life and volunteers at his son's school. Respondent owns his own home.

Dewey Taylor is the grandfather of respondent's child. He has known respondent for ten years, and has seen tremendous maturation in the last five years. Taylor has never known respondent to be dishonest.

### LEGAL CONCLUSIONS

1. Under Business and Professions Code section 480(a) and 10177(b) the Commissioner may deny an application for a real estate license if the applicant has been convicted of a felony or a crime involving moral turpitude that is substantially related to the qualifications, functions, or duties of a real estate licensee.

By reason of the matters set forth in Findings 4, 5, and 6, respondent was convicted of two misdemeanor offenses, driving under the influence of alcohol and hit and run with property damage. There is no authority for the proposition that either of these offenses involve moral turpitude per se. (See e.g., *In re Kelley* (19 ) 52 Cal.3d 487, 494 [driving under the influence is not an offense involving moral turpitude per se in the context of attorney discipline proceedings].) But, it was established by sufficient evidence that as committed, each offense involved moral turpitude. Each offense is also substantially related to the qualifications, functions or duties of a real estate licensee respondent committed an unlawful act with the threat of doing substantial injury to the person or property of another. (Cal. Code Regs., tit. 10, § 2910(a)(8).) Cause therefore exists to deny respondent's application under Business and Professions Code sections 480(a) and 10177(b).

2. Under Business and Professions Code sections 480, subdivision (c), the Real Estate Commissioner may deny an application for licensure if the applicant knowingly makes a false statement of fact required to be revealed in the application. Under Business and Professions Code section 10177(a) the Commissioner may deny an application for a real estate license if the applicant attempted to procure a real estate license by fraud, misrepresentation or deceit, or made any material misstatement of fact in the application for licensure. By reason of the matters set forth in Findings 3 and 7 cause exists to deny respondent's application for licensure in that he made a material misstatement of fact on his application for licensure.

3. All matters set forth in the Factual Findings and in section 2911 of title 10 of the California Code of Regulations have been considered in reaching the determination that it would not be contrary to the public interest to issue respondent a conditional real estate salesperson license on a restricted basis. In particular, it is noted that the offenses occurred

during a single transaction that took place over four years ago. Respondent completed his probation and probation has been terminated. The offenses were a wakeup call to respondent, and he had responded to that call and matured. There is no evidence that respondent has an ongoing substance abuse problem, and there is no reason to believe that the behavior will be repeated. Respondent has a stable family life, and stable employment. While respondent was careless in the completion of his application for licensure, it does not demonstrate that respondent lacks the honesty and integrity to be expected of licensees. The public will be adequately protected by the following order.

#### ORDER

Respondent's application for a real estate salesperson license is denied by reason of Legal Conclusions 1 and 2; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. 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 said Code:

1. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.
2. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.



3. The license shall not confer any property right in the  
privileges to be exercised, and the Real Estate Commissioner  
may by appropriate order suspend the right to exercise any  
privileges granted under this restricted license in the event of:

(a) The conviction of respondent (including a plea of  
nolo contendere) of a crime which is substantially related  
to respondent's fitness or capacity as a real estate  
licensee; or

(b) The receipt of evidence 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 this restricted  
license.


4. Respondent 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 two years have elapsed from the date of  
issuance of the restricted license to respondent.

5. With the application for license, or with the application  
for transfer to a new employing broker, respondent shall submit  
a statement signed by the prospective employing real estate  
broker on a form RE 552 (Rev. 4/88) approved by the  
Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision  
which is the basis for the issuance of the restricted  
license; and

(b) That the employing broker will carefully review all  
transaction documents prepared by the restricted licensee  
and otherwise exercise close supervision over the  
licensee's performance of acts for which a license is  
required.

DATED: Nov. 6, 2002

  
MELISSA G. CROWELL  
Administrative Law Judge  
Office of Administrative Hearings

FILED  
JUL 11 2002

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

*In the Matter of the Application of*

THOMAS LESLEY GORE,

} Case No. H-8131 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, THE ELIHU HARRIS STATE BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **SEPTEMBER 20, 2002**, at the hour of **1:30 PM**, 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 not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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

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

*Dated:* JULY 9, 2002

DEPARTMENT OF REAL ESTATE  
By David A. Peters  
DAVID A. PETERS, Counsel

1 DEIDRE L. JOHNSON, Counsel  
2 SBN 66322  
3 Department of Real Estate  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000  
6 Telephone: (916) 227-0789

FILED  
JUN 20 2002

DEPARTMENT OF REAL ESTATE

By Juan Arreola

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 THOMAS LESLEY GORE, ) NO. H-8131 SF  
13 Respondent. ) STATEMENT OF ISSUES  
14 )

15 The Complainant, LES R. BETTENCOURT, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Statement of Issues against THOMAS LESLEY GORE, alleges as  
18 follows:

19 I

20 THOMAS LESLEY GORE (hereafter Respondent), pursuant to  
21 the provisions of Section 10153.3 of the Business and Professions  
22 Code, made application to the Department of Real Estate of the  
23 State of California for a real estate salesperson license on or  
24 about November 29, 2001, with the knowledge and understanding  
25 that any license issued as a result of said application would be  
26 subject to the conditions of Section 10153.4 of the Business and  
27 Professions Code.

1 II

2 The Complainant, LES R. BETTENCOURT, a Deputy Real  
3 Estate Commissioner of the State of California, makes this  
4 Statement of Issues in his official capacity and not otherwise.

5 III

6 In response to Question 25 of said application, to wit:  
7 "Have you ever been convicted of any violation of law?",  
8 Respondent answered "No," and failed to disclose the conviction  
9 alleged in Paragraph IV below.

10 IV

11 On or about April 9, 1997, in the Municipal Court of  
12 the State of California, County of Contra Costa, Respondent  
13 was convicted of violation of California Vehicle Code  
14 Sections 23152(a) (DRIVING UNDER THE INFLUENCE) and 20002(a)  
15 (HIT AND RUN), crimes involving moral turpitude, and/or crimes  
16 which bear a substantial relationship under Section 2910,  
17 Title 10, California Code of Regulations, to the qualifications,  
18 functions, or duties of a real estate licensee.


19 V

20 Respondent's failure in said application to reveal the  
21 conviction as alleged above constitutes the attempt to procure a  
22 real estate license by fraud, misrepresentation, or deceit, or by  
23 making material misstatements of fact in said application, or by  
24 knowingly making false statements in said application, which is  
25 cause for denial of Respondent's application for a real estate  
26 license under Sections 480(c) and 10177(a) of the California  
27 Business and Professions Code.

VI

The crime of which Respondent was convicted, as alleged in Paragraph IV above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the Business and Professions Code.

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

  
LES R. BETTENCOURT  
Deputy Real Estate Commissioner

Dated at Oakland, California  
this 29th day of May, 2002