

FILED
NOV - 4 1991
DEPARTMENT OF REAL ESTATE

* * *

DECISION

"6. Respondent shall, within nine (9) months from the effective date of this Decision present evidence satisfactory to the Real Estate Commissioner that Respondent has taken and successfully completed the courses specified in subdivisions (a) and (b) of Section 10170.5 of the Real Estate Law for renewal of a real estate license. The restricted license issued pursuant to this Decision shall be deemed to be the first renewal of Respondent's real estate salesperson license for the purposes of applying the provisions of Section

10153.4. Upon renewal of the license issued pursuant to this Decision or upon reinstatement of Respondent's real estate salesperson license, Respondent shall submit evidence of having 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." Condition "7" of the Order of the Proposed Decision is not adopted and shall not be part of the Decision.

Except as hereby modified and amended, the Proposed Decision dated October 1, 1991, is hereby adopted as the Decision of the Real Estate Commissioner.

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.

The Decision shall become effective at 12 o'clock noon on November 25, 19 91.

IT IS SO ORDERED October 24, 19 91.

CLARK WALLACE
Real Estate Commissioner

By:


JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
of:	)	
	)	
LISA RENE STEPHENSON,	)	No. H-1072 FRESNO
	)	
	)	L-54579
Respondent.	)	
	)	

PROPOSED DECISION

This matter was heard by Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, in San Luis Obispo, California, on September 16, 1991. Complainant was represented by Roland Adickes, Staff Counsel. Respondent was present throughout the hearing and represented by Douglas Hilton, Attorney at Law.

Oral and documentary evidence having been received and the matter submitted for decision, the Administrative Law Judge finds as follows:

FINDINGS OF FACT

1. The Administrative Law Judge on his own motion takes official notice that the Accusation was made and filed by Jerry E. Fiscus solely in his official capacity as Deputy Real Estate Commissioner of the Department of Real Estate, State of California (hereafter Department).

2. On May 2, 1990, the Department issued a real estate salesperson's license (no. 01074038) to Lisa Rene Stephenson (hereafter respondent). Said license expires on May 1, 1994, and is in full force and effect.

3. (A) On June 12, 1990, in the Municipal Court, San Luis Obispo County, State of California, in People v. Stephenson, case no. M157498, respondent was convicted on her plea of guilty of violating Penal Code Section 484(a) (petty theft), a misdemeanor and a crime involving moral turpitude.

(B) As result of the conviction, imposition of sentence was suspended for one year and respondent was ordered to pay a fine of \$289, spend a day in jail, and attend a theft offender program.

(C) Said crime is substantially related to the duties, qualifications, or functions of a real estate salesperson.

(D) Respondent has paid the court-ordered fine, spent a day in custody at the jail, and completed the theft offender program.

4. The facts and circumstances of respondent's offense are that, on May 2, 1990, respondent took three items of clothing valued at \$94 from the Mervyn's department store in San Luis Obispo without paying for said merchandise.

5. Respondent was shopping with her son. She claims that her son wanted to go home and she accidentally took the clothing from the department store. Respondent states she intended to pay for the merchandise but forgot to do so. Respondent's claims are not credible.

6. Respondent is a life-long resident of San Luis Obispo County. She has a business diploma from Santa Barbara Business College in Santa Maria and previously worked as a bookkeeper for two businesses.

7. Respondent has been licensed as a real estate salesperson for one and one-half years. Since January 3, 1991, respondent has been continuously employed as a real estate salesperson with Don McHaney Realty/Coldwell Banker Residential Real Estate in Arroyo Grande. Respondent disclosed her conviction to her broker-manager. Said employer is aware of respondent's conviction and desires to continue employing her. Previously, respondent worked for a short time as a real estate salesperson with RE/Max Realtors of the Central Coast.

8. Respondent is a knowledgeable and productive employee for Don McHaney Realty. She is conscientious and diligent in her activities as a real estate salesperson. Respondent has a reputation for trustworthiness in the community.

9. Respondent is embarrassed about her offense. She demonstrates remorse about her conduct. It was not established that she has any other convictions or prior disciplinary history.

10. Respondent is 21 years old. She is the single parent of a four-year old son and lives with him at her grandmother's home in Arroyo Grande. Respondent supports herself and her son through her real estate activities.

* * * * *

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

CONCLUSIONS OF LAW

1. Grounds exist to revoke or suspend respondent's real estate salesperson's license pursuant to Business and Professions Code Sections 10177(b) and 490, in that respondent has been convicted of a crime involving moral turpitude, which is substantially related to the duties, qualifications, or functions of a real estate licensee, as set forth in Findings 3 and 4 above.

2. It was not established that respondent is completely rehabilitated from her recent conviction under the criteria provided by Business and Professions Code Section 482 and Title 10, California Code of Regulations, Section 2912, based on Findings 3(A), 3(B) and 5 above. However, inasmuch as the purpose of disciplining Department licensees is to protect the public and not punish the licensee, revocation of respondent's real estate license is too harsh a penalty, based on Findings 6 - 10 above. Respondent has completed the terms of her suspended sentence. Respondent has a reputation as a trustworthy and conscientious real estate salesperson. She is embarrassed and remorseful about her conviction. Therefore, it would not be against the public interest and welfare to issue respondent a restricted license.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

ORDER

The real estate salesperson's license no. 01074038 and license rights previously issued to respondent Lisa Rene Stephenson are revoked; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to Business and Professions Code Section 10156.6 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee within sixty (60) days from the effective date of the Decision herein. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code Section 10156.7 and to the following limitations, conditions, and restrictions imposed under the authority of Business and Professions Code Section 10156.6:

1. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction (including a conviction on a plea of nolo contendere) of a crime which bears a significant relation to the respondent's qualifications, functions, or duties as a real estate licensee.

2. The restricted license 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 of 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 the restricted license until three (3) years have elapsed from date of issuance of the restricted license to respondent.

4. Respondent shall submit with her application for said restricted license under an employing broker, or any application in the future for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:

- a. That he/she has read the Decision of the Commissioner which granted the right to a restricted license;
- b. That he/she will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

5. Respondent shall obey all laws of the United States and the State of California.

6. Respondent shall, within nine (9) 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 Procedures Act to present such evidence.

Modified

not adopted { 7. Respondent shall, within six (6) 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 restricted license until respondent passes said examination.

Dated: Oct. 1, 1991



VINCENT NAFARRETE
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 16 1991
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

LISA RENE STEPHENSON,

Respondent

Case No. H-1072 FRESNO

OAH No. L-54579

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the City
Planning Commission, Council Chamber, 990 Palm Street, San Luis Obispo, CA 93401

on the 16th day of September, 19 91, at the hour of 3:00 PM, or as soon thereafter
as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

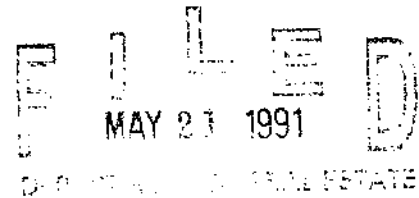
Dated: August 15, 1991

DEPARTMENT OF REAL ESTATE

By Roland Adickes
ROLAND ADICKES Counsel

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2 Department of Real Estate
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4 Sacramento, CA 95818-7000

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By *Kathleen Contreras*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 LISA RENE STEPHENSON,)
13 Respondent.)

NO. H-1072 FRESNO

ACCUSATION

15 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against LISA RENE STEPHENSON (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code") as a real
23 estate salesperson subject to Section 10153.4 of the Code.

24 II

25 The Complainant, Jerry E. Fiscus, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity.

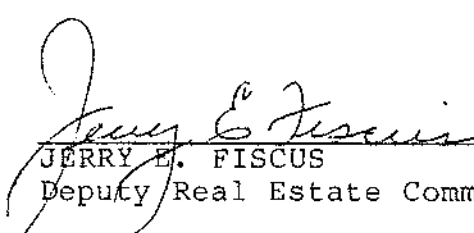
1 III

2 On or about June 12, 1990, in the San Luis Obispo
3 Municipal Court, County of San Luis Obispo, State of California,
4 Respondent was convicted of violation of Section 484(a) of the
5 California Penal Code (Petty Theft), a crime involving moral
6 turpitude which is substantially related under Section 2910, Title
7 10, California Code of Regulations to the qualifications,
8 functions or duties of a real estate licensee.

9 IV

10 The facts alleged above constitute cause under Sections
11 490 and 10177(b) of the Code for suspension or revocation of all
12 licenses and license rights of Respondent under the Real Estate
13 Law.

14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof,
16 a decision be rendered imposing disciplinary action against all
17 licenses and license rights of Respondent under the Real Estate
18 Law (Part 1 of Division 4 of the Business and Professions Code),
19 and for such other and further relief as may be proper under other
20 provisions of law.

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JERRY E. FISCUS
Deputy Real Estate Commissioner

25 Dated at Fresno, California
26 this 13th day of May, 1991.

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