

1 Attorney General of the State of California has been given
2 notice of the filing of said petition.

3 I have considered Respondent's petition and the
4 evidence and arguments in support thereof. Respondent has
5 failed to demonstrate to my satisfaction that she has
6 undergone sufficient rehabilitation to warrant the
7 reinstatement of her real estate broker license at this time.
8 This determination has been made in light of Respondent's
9 history of acts and conduct which are substantially related
10 to the qualifications, functions and duties of a real estate
11 licensee. That history includes:

12 1. In the Decision which granted Respondent the
13 right to apply for and receive a restricted real estate
14 broker license the Administrative Law Judge ordered that
15 Respondent would not be eligible to apply for the issuance of
16 an unrestricted real estate license nor the removal of any of
17 the limitations, conditions, or restrictions of said
18 restricted license until three (3) years elapsed from the
19 date of issuance of said restricted license to Respondent.
20 Considering the serious nature of the conduct which led to
21 the revocation of Respondent's real estate broker license,
22 the Order of the Administrative Law Judge hearing this
23 matter, and the fact that Respondent, by her own choice, has
24 not participated in activities requiring a license in the
25 past two years, she has failed to demonstrate sufficient
26 rehabilitation at this time. This is cause to deny her
27 petition pursuant to Section 2911(a) of Chapter 6, Title 10,
California Code of Regulations.

1
2 However, Respondent has shown sufficient evidence
3 of rehabilitation that I am satisfied that it will not be
4 against the public interest to grant Respondent the right to
5 the issuance of a restricted real estate broker license.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement of her license as a real estate
8 broker is denied.

9 However a restricted real estate broker license
10 shall be issued to Respondent pursuant to Section 10156.5 of
11 the Code after Respondent satisfied the following conditions
12 within one (1) year from the date of this Order:

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

15 2. Submittal of evidence satisfactory to the Real
16 Estate Commissioner that Respondent has, since September 26,
17 1992, taken and successfully completed the continuing
18 education requirements of Article 2.5 of Chapter 3 of the
19 Real Estate Law for renewal of a real estate license.

20 3. Submittal of evidence satisfactory to the Real
21 Estate Commissioner that Respondent has, since her real
22 estate broker license was revoked, taken and successfully
23 passed the Professional Responsibility examination
24 administered by the Department of Real Estate.

25 The restricted license issued to Respondent shall
26 be subject to all of the conditions of Section 10156.7 of the
27 Code and to the following limitations, conditions and

1 restrictions imposed under authority of Section 10156.6 of
2 said Code.

3 A. The restricted license shall not confer any
4 property right in the privileges to be exercised thereunder
5 and the Real Estate Commissioner may, by appropriate order,
6 suspend, prior to hearing, the rights of Respondent to
7 exercise any privileges granted under the restricted license
8 in the event of:

9 (1) The conviction of Respondent (including a plea
10 of nolo contendere) of a crime which bears a significant
11 relation to either Respondent's fitness or capacity as a real
12 estate licensee.

13 (2) The receipt of evidence satisfactory to the
14 Real Estate Commissioner that Respondent has violated
15 provisions of the California Real Estate Law, the Subdivided
16 Lands Law, Regulations of the Real Estate Commissioner, or
17 conditions attaching to said restricted license.

18 B. Respondent shall not be eligible to apply for
19 the issuance of any unrestricted real estate license nor the
20 removal of any of the conditions, limitations or restrictions
21 of the restricted license until at least one (1) year has
22 elapsed from the date of issuance of the restricted license
23 to Respondent.

24 /

25 /

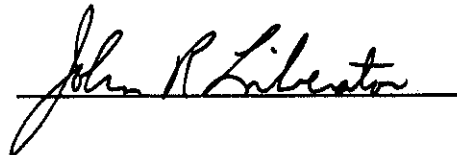
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This Order shall become effective at twelve o'clock

noon on November 3, 1994.

DATED: October 12, 1994.

JOHN R. LIBERATOR
Interim Commissioner



JUDY ANN WHITMAN
1365 S. Walnut #5210
Anaheim, California 92802

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FILED

NOV-2 1992

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY *Clark Wallace*

* * * *

In the Matter of the Accusation of)
)
JUDY ANN WHITMAN,)
)
aka Judy Ann Klusmeyer,)
)
aka Judy Ann Whitman Parker,)
)
)
Respondent.)

No. H-1337 SA
L-57172

DECISION

The Proposed Decision dated October 8, 1992 of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on November 23, 1992.

IT IS SO ORDERED October 22, 1992

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
by: JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
of:)	
JUDY ANN WHITMAN,)	NO. H-1337 SA
aka Judy Ann Klusmeyer,)	
aka Judy Ann Whitman Parker,)	L-57172
)	
Respondent.)	
<hr/>		

PROPOSED DECISION

This matter came on regularly for hearing before Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on September 8, 1992. Complainant was represented by Marjorie P. Mersel, Staff Counsel. Respondent was present throughout the hearing and represented by Kenneth A. Bryant, Attorney at Law.

At the commencement of the hearing, complainant's motion to amend the Accusation by interlineation was granted as follows: on page 1, paragraph I, line 21, the name "Steven J. Ellis" was stricken and the name "Thomas McCrady" was inserted in place thereof.

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 takes official notice that the Accusation was made and filed by Thomas McCrady solely in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California (hereafter Department).

2. At all times relevant herein, Judy Ann Whitman, also known as Judy Ann Klusmeyer and Judy Ann Whitman Parker (hereafter respondent), held real estate broker's license no. 00456651 and licensing rights issued by the Department. Said license expired on September 26, 1992. Continuing jurisdiction exists in this matter pursuant to Business and Professions Code Section 10103.

3.(A) On or about March 25, 1991, in the Municipal Court, North Orange County Judicial District, County of Orange, State of California, in People vs. Judy Ann Whitman Parker, case no. NM9015829, respondent was convicted on her plea of nolo contendere of violating Penal Code Section 488 (petty theft), a misdemeanor and a crime involving moral turpitude.

(B) As a result of the conviction, respondent was placed on summary probation for three (3) years on condition, in part, that she pay a fine of \$25.00 and serve thirty (30) days in the Orange County Jail.

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

4.(A) The facts and circumstances of respondent's offense are that, on or about October 28, 1990, respondent helped her 23 year old daughter to take clothing valued at approximately \$800.00 from a Nordstrom's department store.

(B) On or about October 28, 1990, respondent went shopping with her daughter and two year old granddaughter. Respondent brought clothing items to her daughter in a dressing room who then placed the merchandise in a diaper bag. Respondent had not planned to steal any merchandise and did not know that her daughter was going to commit theft. Nevertheless, respondent became an accomplice to said crime and exited the department with her daughter. On said date, respondent did not have the money to pay for the merchandise.

5. Respondent admits her offense and demonstrates remorse. She realizes that she used poor judgment in allowing herself to become an accomplice in her daughter's theft and should have stopped her daughter from stealing or walked away from her. Respondent did not help her daughter place any merchandise in the diaper bag. Respondent explains that her daughter is a single parent who subsists on welfare assistance.

6. Respondent has paid the \$25.00 fine and completed her jail sentence. She remains on probation for her offense.

7. Respondent's conviction is recent, having occurred eighteen months ago. Respondent has no other convictions or disciplinary history.

8. Respondent was first issued a real estate salesperson's license in 1974. Two years later, in 1976, respondent was issued said real estate broker's license set forth in Finding 2 above. Respondent has therefore held a real estate license issued by the Department for eighteen years.

9. (A) For the past five or six years, respondent has been employed as a special delivery messenger for a title company. She recently quit a second job working nights as a waitress.

(B) Respondent was last employed by a real estate company six years ago. She uses said real estate broker's license to conduct her personal real estate transactions as well as to manage rental properties owned by her mother. In 1991, respondent was involved in one real estate transaction which involved the use of said license.

10. Respondent desires to retain her real estate broker's license to conduct her own real estate transactions. She owns two rental properties.

* * * * *

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 broker'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 - 4 above.

2. It was not established that respondent is rehabilitated from the conviction under the criteria set forth in Business and Professions Code Section 482 and Title 10, California Code of Regulations, Section 2912, based on Findings 3(A), 6, and 7 above. Respondent's conviction is recent. She remains on probation for her offense. In mitigation, respondent demonstrates remorse for her offense and admits that she exercised poor judgment. In addition, respondent has been licensed as a real estate broker for sixteen (16) years without any history of prior disciplinary action. She has no other convictions. Her conviction, therefore, appears to be an isolated incident. It would not, therefore, be against the public interest and welfare to issue a restricted license to respondent.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

ORDER

Real estate broker's license no. 00456651 and license rights previously issued to respondent Judy Ann Whitman, also known as Judy Ann Klusmeyer and Judy Ann Whitman Parker, are revoked, based on Conclusions of Law no. 1; provided, however, a restricted real estate broker'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 days from the effective date of the Decision herein. Said restricted license issued to respondent shall be subject to all 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. Immediately upon issuance to respondent, said restricted license and any or all license rights thereunder shall be actually suspended for six months. During the six month period of suspension, respondent shall 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 the continued suspension of said restricted license until such time respondent passes the examination.

2. Respondent shall, within twelve months from the effective date of this decision, present evidence satisfactory to the Commissioner that she has, since the most recent issuance of a 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 the renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of said restricted license until such time respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.


3. Respondent shall obey all laws, rules, and regulations governing the rights, duties, and responsibilities of a real estate licensee in the State of California.

4. Said 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 bears a significant relation to the respondent's qualifications, functions, or duties as a real estate licensee.

5. Said 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 of said restricted license.

6. Respondent shall not be eligible to apply for issuance of an unrestricted real estate license nor the removal of any of the limitations, conditions, or restrictions of said restricted license until three (3) years have elapsed from date of issuance of said restricted license to respondent.

DATED: Oct. 8, 1992


VINCENT NAFARRETE
Administrative Law Judge
Office of Administrative Hearings

VN:mh

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JUN 22 1992

DEPARTMENT OF REAL ESTATE

BY Sylvia Williams

In the Matter of the Accusation of

JUDY ANN WHITMAN,

}

Case No. H-1337 SA

OAH No. L-57172

Respondent

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 _____

OFFICE OF ADMINISTRATIVE HEARINGS, 314 West First Street

Los Angeles, California 90012

on September 8, 1992, at the hour of 1:30 p.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. 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: June 22, 1992

DEPARTMENT OF REAL ESTATE

cc: Judy Ann Whitman
Kenneth A. Bryant, Esq.
OAH
Sacto
TBG

By Marjorie P. Merrill
Counsel

SACTO
FLAG

1 MARJORIE P. MERSEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937

FILED

APR -9 1992

DEPARTMENT OF REAL ESTATE
BY *Sylvia Williams*

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1337 SA
12 JUDY ANN WHITMAN, aka)
13 Judy Ann Klusmeyer, aka) A C C U S A T I O N
14 Judy Ann Whitman Parker,)
15 Respondent.)

16 The complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against JUDY ANN WHITMAN, aka Judy Ann Klusmeyer, aka Judy Ann
19 Whitman Parker, alleges as follows:

20 I

21 The complainant, Steven J. Ellis, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in his official capacity.

24 II

25 JUDY ANN WHITMAN, aka Judy Ann Klusmeyer, aka Judy Ann
26 Whitman Parker (hereinafter referred to as respondent) is
27 presently licensed and/or has license rights under the Real

1 Estate Law (Part 1 of Division 4 of the Business and Professions
2 Code).

3 III

4 At all times herein mentioned, respondent was licensed
5 by the Department of Real Estate of the State of California as a
6 real estate broker, or possessed renewal rights for such a
7 license.

8 IV

9 On or about June 25, 1990, in the Municipal Court,
10 North Orange County Judicial District, County of Orange, State
11 of California, respondent was convicted of violating Penal Code
12 Section 488 (Petty Theft), a crime involving moral turpitude.

13 V

14 The crime of which respondent was convicted bears a
15 substantial relationship to the qualifications, functions or
16 duties of a real estate licensee.

17 VI

18 Respondent's criminal conviction is cause under
19 Sections 490 and 10177(b) of the Business and Professions Code
20 for suspension or revocation of all licenses and license rights
21 of respondent under the Real Estate Law.

22
23 WHEREFORE, complainant prays that a hearing be
24 conducted on the allegations of this Accusation and that upon
25 proof thereof, a decision be rendered imposing disciplinary
26 action against all licenses and license rights of respondent
27 JUDY ANN WHITMAN, aka Judy Ann Klusmeyer, aka Judy Ann Whitman

1 PARKER under the Real Estate Law (Part 1 of Division 4 of the
2 Business and Professions Code) and for such other and further
3 relief as may be proper under other applicable provisions of law.
4 Dated at Santa Ana, California
5 this 9th day of April, 1992.

6
7 THOMAS McCRADY
8 Deputy Real Estate Commissioner
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26 cc: Judy Ann Whitman
27 Sacto
TBC