

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 03 2003

DEPARTMENT OF REAL ESTATE

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In the Matter of the Application of)

SUSANA TURIANO CRUZ,

Respondent.

) NO. H-2811 SD

) OAH No. L2003030705

DECISION

The Proposed Decision dated June 9, 2003, 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 JULY 23, 2003.

IT IS SO ORDERED June 26 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of :

SUSANA TURIANO CRUZ,

Respondent.

Case No. H-2811 SD

OAH No. L2003030705

PROPOSED DECISION

On May 27, 2003, in San Diego, California, Greer D. Knopf, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David B. Seals, Counsel, the Department of Real Estate, appeared on behalf of complainant J. Chris Graves, Deputy Real Estate Commissioner, Department of Real Estate, State of California.

Susana Turiano Cruz, respondent, appeared and represented herself at the hearing.

The matter was submitted on May 27, 2003.

FACTUAL FINDINGS

1. Statement of issues number H-2811 SD, dated January 10, 2003, was filed on February 19, 2003, by complainant, J. Chris Graves, in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California against respondent Susana Turiano Cruz. The statement of issues alleges respondent applied for a license as a real estate salesperson and she has been convicted of a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate salesperson. On March 10, 2003, respondent filed a notice of defense dated March 5, 2003 requesting a hearing on the statement of issues. The proceeding herein followed.

2. On March 6, 2002, respondent submitted an application for a real estate salesperson's license to the Department of Real Estate (hereinafter referred to as "the Department"). Respondent signed her application certifying the truth and accuracy under penalty of perjury. In her application, respondent disclosed there were criminal charges

pending against her for petty theft. The Department denied respondent's application for a license.

3. On April 24, 2002, in the Superior Court, County of San Diego, State of California, respondent was convicted of a violation of Penal Code section 484, theft. This crime is a misdemeanor that involves moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee under Title 10, California Code of Regulations, section 2910. Respondent was sentenced to serve three years probation and one day in custody at Las Colinas Women's Detention Facility. The court also ordered respondent to pay a \$250.00 fine and \$100.00 in restitution and further ordered respondent not to enter the Costco store in Chula Vista, California.

4. This conviction arose out of respondent's arrest for shoplifting on December 7, 2001. Respondent went into a Costco store in Chula Vista California and took several bottles of champagne without paying for them. Respondent had been feeling overwhelmed by the stress of raising a family while her husband was deployed with the Navy. Respondent had recently moved to San Diego away from her friends and support and her husband was out to sea for a six-month deployment. She decided she was going to get drunk to drown her sorrows, but felt she could not afford to spend money on alcohol when she had children to feed. Somehow she decided that stealing the wine would be better than buying it. Store security officers detained respondent after she left the store without paying for the merchandise.

5. Respondent is 42 years old and she has been married for 17 years. She has four children all of whom still live at home. Respondent's husband has been in the Navy the entire time they have been married. Being a Navy family, they have moved often. Over the years, respondent has held several very responsible jobs. She worked as a loan officer for the Navy Federal Bank in various branches over the course of 12 years. In that capacity, she approved loans and handled money for the bank. Respondent has also worked as a program coordinator for Troy State University and as an intake specialist for Southwestern College. She now works as an employment advisor at the South County Career Center. Respondent has always maintained a good employment record and has never had any other criminal arrests or convictions.

When respondent committed petty theft, she acted out of character at a time in her life when she was under a great deal of stress. She is ashamed of what she did and she is sincerely remorseful for her actions. Respondent appears to have learned a significant life lesson. However, she has not sought any counseling for the stress and depression that seems to have led to her actions. Respondent is also still serving out her criminal sentence. She will be on probation until 2005, unless she petitions the court for early termination of probation. Until respondent completes her criminal probation, it would be premature to grant her a license. It would not be in the public interest to grant respondent a license as a real estate salesperson at this time while she is still serving her criminal sentence.

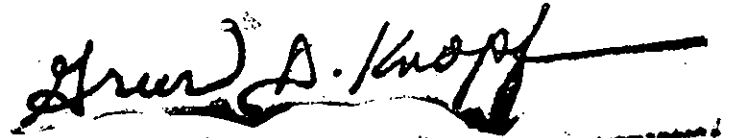
LEGAL CONCLUSIONS

Cause exists to deny respondent's application for a license as a real estate salesperson pursuant to Business and Professions Code sections 480(a) and 10177(b) in that respondent was convicted of a crime that involved moral turpitude and was substantially related to the qualifications, functions and duties of a real estate licensee, as set forth in Findings 2, 3, 4, and 5.

ORDER

The application of Susana Turiano Cruz submitted to the Department of Real Estate, State of California for a license as a real estate salesperson is hereby denied.

DATED: 6/9/03



GREER D. KNOPF
Administrative Law Judge
Office of Administrative Hearings

FILED
MAR 13 2003

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Application of

SUSANA TURIANO CRUZ,



Case No. H-2811 SD

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
1350 FRONT STREET, ROOM 6022
SAN DIEGO, CALIFORNIA 92101**

on **MAY 27, 2003**, 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 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: MARCH 13, 2003

DEPARTMENT OF REAL ESTATE
By David B. Seals
DAVID B. SEALS, Counsel

1 LARRY A. ALAMAO, Counsel
State Bar No. 47379
2 Department of Real Estate
P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
FEB 19 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 SUSANA TURIANO CRUZ,) NO. H-2811 SD
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
17 Commissioner of the State of California, for Statement of Issues
18 against SUSANA TURIANO CRUZ (hereinafter "Respondent"), is
19 informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about March 6, 2002, with the knowledge and
24 understanding that any license issued as a result of said
25 application would be subject to the conditions of Section 10153.4
26 of the Business and Professions Code.

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II

Complainant, J. CHRIS GRAVES, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

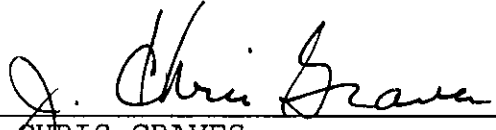
III

On or about April 24, 2002, in the Superior Court, County of San Diego, Respondent was convicted of a violation of Section 484 of the California Penal Code (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.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California 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 under other provisions of law.



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 10th day of January, 2003.