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FILED

OCT 26 2007

DEPARTMENT OF REAL ESTATE

By Jean Aronoff

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of) No. No. H-3580 SAC  
RENEE L. HODGE, )  
Respondent. )

ORDER GRANTING UNRESTRICTED LICENSE

On July 26, 2001, a Decision After Rejection 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 April 2, 2002, and Respondent has operated as a restricted licensee since that time.

On May 3, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

///

1 I have considered Respondent's Petition and the  
2 evidence submitted in support thereof including Respondent's  
3 record as a restricted licensee. Respondent has demonstrated to  
4 my satisfaction that Respondent meets the requirements of law for  
5 the issuance to Respondent of an unrestricted real estate  
6 salesperson license and that it would not be against the public  
7 interest to issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 Petition for removal of restrictions is granted and that a real  
10 estate salesperson license be issued to Respondent if, within  
11 nine (9) months from the date of this order, Respondent shall:

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

14 (b) Submit evidence of having taken and successfully  
15 completed the continuing education requirements of Article 2.5 of  
16 Chapter 3 of the Real Estate Law for renewal of a real estate  
17 license.

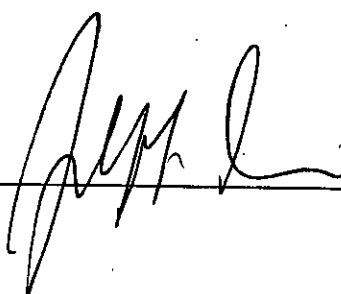
18 This Order shall become effective immediately.

19 IT IS SO ORDERED 10/17, 2007.

20 JEFF DAVI

21 Real Estate Commissioner

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FILED

DEC - 4 2001

DEPARTMENT OF REAL ESTATE

By Laurie A. Zim

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of	)	No. H-3580 SAC
RENEE L. HODGE,	)	OAH No. N-2001040558
Respondent.	)	

DECISION AFTER REJECTION

The matter came on for hearing before William O. Hoover, Administrative Law Judge of the Office of Administrative Hearings, in Sacramento, California, on June 8, 2001.

David A. Peters, Counsel, represented the Complainant. Respondent RENEE L. HODGE was present and represented herself.

Evidence was received, the hearing was closed, and the matter was submitted.

On June 29, 2001, the Administrative Law Judge rendered a Proposed Decision, which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with

1 notice of my determination not to adopt the Proposed Decision of  
2 the Administrative Law Judge along with a copy of said Proposed  
3 Decision. Respondent was notified that the case would be  
4 decided by me upon the record, the transcript of proceedings  
5 held on June 8, 2001, and upon any written argument offered by  
6 Respondent and Complainant.

7 I have given careful consideration to the record in  
8 this case including the transcript of the proceedings of June 8,  
9 2001.

10 The Proposed Decision dated June 29, 2001, of the  
11 Administrative Law Judge of the Office of Administrative  
12 Hearings is hereby adopted as the Decision of the Real Estate  
13 Commissioner in the above-entitled matter.

14 The application for a real estate salesperson license  
15 is denied, but the right to a restricted real estate salesperson  
16 license is granted to Respondent. There is no statutory  
17 restriction on when a new application may be made for an  
18 unrestricted license. Petition for the removal of restrictions  
19 from a restricted license is controlled by Section 11522 of the  
20 Government Code. A copy is attached hereto for the information  
21 of Respondent.

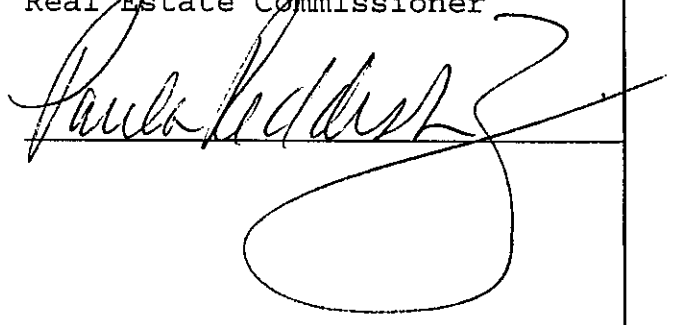
22 If and when application is made for a real estate  
23 salesperson license through a new application or through a  
24 petition for removal of restrictions, all competent evidence of  
25 rehabilitation presented by the Respondent will be considered by  
26 the Real Estate Commissioner. A copy of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

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This Decision shall become effective at 12 o'clock  
noon on December 24, 2001.

IT IS SO ORDERED November 28, 2001.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



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FILED  
AUG - 2 2001

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of )	
RENEE L. HODGE, )	No. H-3580 SAC
Respondent. )	L-2001040558

NOTICE

TO: Respondent RENEE L. HODGE.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 29, 2001, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated, June 29, 2001, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 8, 2001, and any written argument hereafter submitted on behalf of Respondent and Complainant.

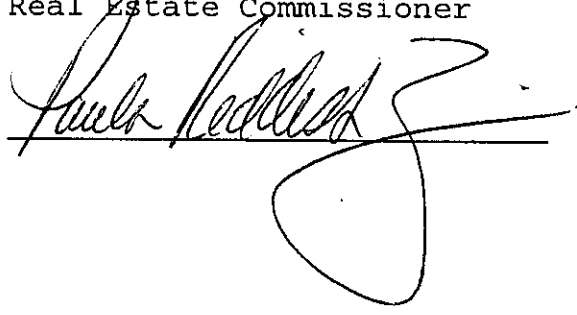
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Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of June 8, 2001, at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of Complainant to be considered by me must be submitted within 15 days after receipt of the argument of Respondent at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: July 26, 2001

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

RENEE L. HODGE

Respondent.

No. H-3580 SAC

OAH No. N2001040558

**PROPOSED DECISION**

William O. Hoover, Administrative Law Judge, Office of Administrative Hearings, heard this matter on June 8, 2001, in Sacramento, California.

David Peters, Staff Counsel represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, Department of Real Estate ("Department"), State of California.

Renee L. Hodge ("respondent") appeared and represented herself.

The matter was submitted on June 8, 2001.

**FACTUAL FINDINGS**

1. Complainant made and filed this Statement of Issues in his official capacity. The filing was based on an evaluation of respondent's application for licensure, which revealed criminal convictions for grand theft (felony) and petty theft (misdemeanor). Respondent has the burden of establishing by a preponderance of the evidence that she is entitled to issuance of a license.

2. Respondent submitted to the Department an application, dated and signed October 19, 2000, for a real estate salesperson's license pursuant to Business and Professions Code section 10153.3 and subject to Business and Professions Code section 10153.4. As of



April 16, 2001 respondent has not completed all of the courses required of her pursuant to Business and Professions Code section 10153.4.

3. On February 26, 1985 respondent was convicted before the Municipal Court, Solano County, of a violation of Penal Code section 484 (petty theft), a misdemeanor. Court documents pertaining to the conviction were not presented. However, respondent testified credibly that she was sentenced to perform community service and pay a fine.<sup>1</sup> The offense involves moral turpitude and is substantially related to the qualifications, functions and duties of the licensed activity.

4. The facts and circumstances of the offense are that on January 25, 1985 respondent removed two pairs of Levi's pants from a shelf at a local Mervyn's Department Store in Fairfield, California and placed them in a shopping bag. Respondent then refunded the pants at a checkout counter for \$42.40 cash. She was arrested at the scene and the pants recovered. At hearing respondent did not have a clear recollection of the reasons for her conduct. She stated that her conduct was probably retaliation for some vaguely described prior incident involving her and the department store.

5. On June 23, 1995 before the Superior/Municipal Courts of Napa County, in Case No. CR22493, respondent was found guilty on her plea, of a felony violation of Penal Code section 487(a) (grand theft). On August 1, 1995 the court entered judgement, suspended the imposition of sentence for three years and placed respondent on formal probation subject to specified terms and conditions as stated in the probation officer's report. These terms and conditions included a period of local incarceration (30 days), payment of restitution, counseling and furtherance of respondent's education. The probation report was not provided at hearing and the terms and conditions of probation identified were determined from the court's sentencing document, a letter from the probation department and respondent's testimony.

6. The facts and circumstances of the offense are that on April 27, 1994 respondent was an employee of San Francisco Federal Savings and Loan ("S&L"). On the date indicated respondent was assisting a customer who desired to add one of his relatives to his account. Respondent withdrew \$2872.00 from the account without the permission or knowledge of the account holder for her own personal use. The S&L covered the loss and was named as the victim in the criminal complaint filed subsequently.

7. Respondent testified that she took the money due to financial problems and believes she used it to make a mortgage payment. During the course of her employment at the S&L respondent had informed her supervisor that respondent and her husband had money problems and debt of about \$50,000. During the investigation by the S&L respondent neither admitted nor denied withdrawing the funds and quit without notice on May 27, 1994.

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<sup>1</sup> The ALJ is familiar with criminal sentencing having served as a deputy district attorney for almost twenty years and finds respondent's description of her sentence consistent with that typically imposed on "first time" offenders. (Government Code section 11425.50(c))

Respondent cited stress as her reason for quitting. Prior to quitting her employment respondent was seen by a counseling service provided by the S&L.

8. Respondent fully complied with all the terms and conditions of her probation, which expired on August 1, 1998. Although married and the mother of three young children, respondent returned to college at Sonoma State University to complete her undergraduate degree work. She commuted from her home in Napa, California to the campus at Rohnert Park, California for two academic years, including a summer session. Based on the transcripts from the university, respondent completed her course work with a 3.36 GPA and was awarded a Bachelor of Arts degree on May 27, 1998. On February 8, 1999, respondent's petition to have the plea and conviction set aside and dismissed pursuant to Penal Code section 1203.4 was granted by the court. The court action was based on respondent's full compliance with the terms and conditions of her probation.

9. Respondent has worked as a substitute teacher and sought to obtain a teaching credential. That pursuit has been adversely affected by the conviction that is the subject of this proceeding. Respondent's mother in law wrote a highly complimentary reference letter, dated April 23, 2001, to the credentialing commission on her behalf. The letter also favorably addressed respondent's parenting skills regarding her three children. The mother in law works for the school district in the human resource office, which is responsible for recruitment of new teachers. The letter was submitted at the present hearing and considered as character evidence by the Administrative Law Judge.

10. Respondent also submitted recent letters from the general manager and an employee of a health and fitness center where she has worked on a part time basis for the past five years. These letters were intended for consideration by the teacher credentialing commission, but were received at the present hearing and considered as character evidence. The letters addressed respondent's excellent supervisory and communication skills as the director of the membership department. As director respondent supervises 4-5 employees and has financial responsibilities relating to membership matters to include handling of checks and money and the balancing of accounts. According to the general manager respondent "displays excellent management skills and ... runs a very successful and efficient department." Respondent has not informed either of the aforementioned individuals about her criminal background.

11. A letter from a Deputy Probation Officer (referred to in Factual Finding 5) dated June 7, 2001 and addressed to the Office of Administrative Hearings provided some additional information about respondent's compliance with the order of probation (Factual Finding 8). The letter indicated that respondent's compliance included meeting all reporting and restitution requirements.

12. Respondent reasons for wanting to obtain a real estate sales person's license were not well defined or articulated. While the ability to increase her income was a factor, respondent explained that her husband is a general contractor who builds and sells homes and that she is already involved in some aspects of that activity. She felt that having a

salesperson's license would allow her to become directly involved in the sales aspects as well. Respondent does not have a sponsoring real estate broker and has no prospects of employment as of the hearing date. Respondent's primary focus was her belief that she deserves licensure because she has met the rehabilitative criteria (California Code of Regulations section 2911) established by the Department.

13. Respondent's husband testified at hearing and expressed the opinion that he would not be upset if licensure were not recommended for his wife. However, he did state that if respondent were to be licensed he would be supportive of her endeavors, regardless of any misgivings. He and respondent have been married for 17 years and have three children ages 16, 14 and 8.<sup>2</sup>

14. Consideration of all the evidence in this matter leads to the conclusion that respondent's conduct does not indicate a pattern of dishonesty such that she is lacking in the traits of honesty and integrity so essential to the profession. Neither of the offenses committed demonstrated any level of criminal sophistication. Further, respondent's assertions that her fear of incarceration and devotion to her family would prevent her from a repetition of any similar conduct are credible and persuasive.

15. The determination of whether or not licensure is appropriate must be arrived at through evaluation of respondent's evidence of rehabilitation under the provisions of California Code of Regulations section 2911. Respondent had the burden of establishing that she is entitled to licensure by the Department and she has met that burden. The evidence of respondent's rehabilitation is compelling and demonstrates her commitment to being a law-abiding, productive member of society and positive role model for her children. It would not be contrary to the public interest to grant licensure in a restricted status.

## LEGAL CONCLUSIONS

1. Business and Professions Code sections 480(a) and 10177(b) provide that the Department may deny issuance of a real estate license to anyone convicted of any felony or a crime of moral turpitude, if the crime or act is substantially related to the qualifications, functions or duties of a licensee of the Department (See California Code of Regulations section 2910).

2. Cause for denial of respondent's application based on her conviction of a violation of Penal Code section 484(a), pursuant to Business and Professions Code sections 480(a) and section 10177(b) and California Code of Regulations section 2910, exists by reason of Factual Findings 2, 3 and 4.

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<sup>2</sup> Much of respondent's husband's testimony was of a personal nature and not relevant to the ultimate issue to be determined by the ALJ.

3. Cause for denial of respondent's application based on her conviction of a violation of Penal Code section 487(a), pursuant to Business and Professions Code sections 480(a) and section 10177(b) and California Code of Regulations section 2910, exists by reason of Factual Findings 2, 5, 6 and 7.

4. Cause for issuance of a restricted (conditional) license based and respondent's demonstrated evidence of rehabilitation, pursuant to California Code of Regulations section 2911, has been established by reason of Legal Conclusions 1 and 2 and Factual Findings 1 through 15.

### ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10153.4, 10156.5 and 10156.6 of the Business and Professions Code. The restricted license issued to the 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. 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.

2. 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.

3. 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:

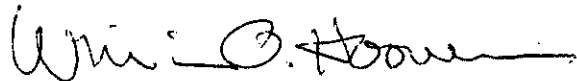
(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(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.

*Adapted*  
4. 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.

5. 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.

Dated: 6/29/01

  
WILLIAM O. HOOVER  
Administrative Law Judge  
Office of Administrative Hearings

FILED  
MAY - 9 2001

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Application of

RENEEE L. HODGE,

}

Case No. H-3580 SAC

OAH No. N-2001040558

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, 560 J Street,

Suites 340/360, Sacramento, California 95814

on June 8, 2001, 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, 2001

By David B. Seals  
DAVID B. SEALS <sup>(KS)</sup> Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000  
5 Telephone: (916) 227-0789  
6 -or- (916) 227-0792 (Direct)  
7

FILED  
APR 12 2001

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 RENE L. HODGE, )  
14 Respondent. )

NO. H-3580 SAC

STATEMENT OF ISSUES

15  
16 The Complainant, Charles W. Koenig, a Deputy Real  
17 Estate Commissioner of the State of California, for Statement of  
18 Issues against RENE L. HODGE (hereinafter "Respondent") alleges  
19 as follows:

20 I

21 Respondent, pursuant to the provisions of Section  
22 10153.3 of the Business and Professions Code, made application to  
23 the Department of Real Estate of the State of California for a  
24 real estate salesperson license on or about October 26, 2000,  
25 with the knowledge and understanding that any license issued as a  
26 result of said application would be subject to the conditions of  
27 Section 10153.4 of the Business and Professions Code.

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II

Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

III

On or about February 26, 1985, in the State of California, Respondent was convicted of violation of California Penal Code Section 484 (Theft of Personal Property), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

On or about June 23, 1995, in the Superior Court for the County of Napa, State of California, Respondent was convicted of violation of California Penal Code Section 487(a) (Grand Theft), a felony and a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

V

The crimes for which Respondent was convicted, as alleged in Paragraphs III and IV above, constitute 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



1 contained herein, that the Commissioner refuse to authorize the  
2 issuance of, and deny the issuance of, a real estate salesperson  
3 license to Respondent, and for such other and further relief as  
4 may be proper under other provisions of law.

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6   
7 CHARLES W. KOENIG  
8 Deputy Real Estate Commissioner

9 Dated at Sacramento, California,  
10 this 19<sup>th</sup> day of March, 2001.  
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