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FILED

JUN 07 2003

DEPARTMENT OF REAL ESTATE

By *Jean Rumeo*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
SERGE F. M. CHAUMETTE,) NO. H-7414 SF
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On July 29, 1997, a Decision was rendered herein
revoking the real estate broker license of Respondent.

On August 21, 2001, Respondent petitioned for
reinstatement of said real estate broker license, and the
Attorney General of the State of California has been given
notice of the filing of said petition.

I have considered Respondent's petition and the
evidence and arguments in support thereof. Respondent has failed
to demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate broker license, in that Respondent still
owes restitution payments ordered as a part of the sentence
imposed in the underlying criminal conviction. Consequently,

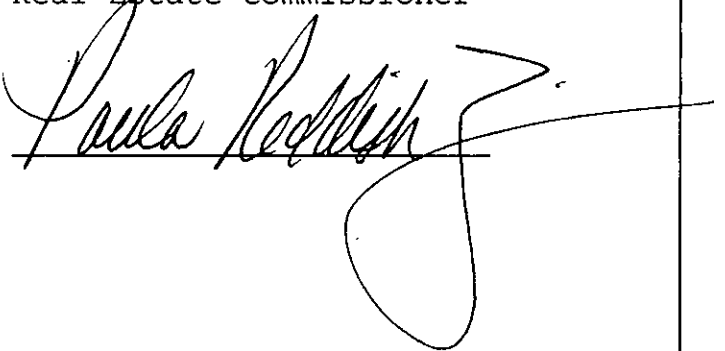
1 Respondent has failed to make full restitution to persons who
2 have suffered monetary losses as a result of Respondent's acts.
3 While Respondent has made some payments toward restitution, he
4 still owes in excess of \$180,000.00. In view of the large
5 amount still unpaid, I am unable to conclude that Respondent has
6 established rehabilitation within the meaning of Section 2911(b)
7 of Title 10, California Code of Regulations.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement of his real estate broker license is
10 denied.

11 This Order shall be effective at 12 o'clock noon on
12 June 27, 2003.

13 DATED: April 18, 2003.

15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 11 1997
DEPARTMENT OF REAL ESTATE

By Laurie A. Zain

* * *

In the Matter of the Accusation of)
SERGE F. M. CHAUMETTE,)
Respondent.)

NO. H-7414 SF
N-9612091

DECISION

The Proposed Decision dated July 11, 1997, 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 September 2, 1997.

IT IS SO ORDERED

7/29

, 1997.

JIM ANTT, JR.
Real Estate Commissioner

Jm Antt Jr

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)		
)	Case No. H-7414 SF
SERGE F. M. CHAUMETTE,)	
)	OAH No. N 9612091
Respondent.)	
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PROPOSED DECISION

This matter was heard before Robert Walker, Administrative Law Judge, Office of Administrative Hearings, State of California, on June 11, 1997, at Oakland, California.

James C. Beaver, Counsel, represented the complainant, Les R. Bettencourt, (Complainant).

The respondent, Serge F. M. Chaumette (Respondent), appeared in propria persona.

FINDINGS OF FACT

1. The Complainant filed the accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent is licensed or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate broker.
3. On September 17, 1996, in the United States District Court, Northern District of California, Respondent was convicted of the use of counterfeit access devices, a felony and a violation of 18 United States Code section 1029(a)(1). The conviction was on a plea of guilty.
4. The court placed Respondent on probation for five years. As conditions of probation, the court required that Respondent serve 15 months in a halfway house, that he not be employed in a position of fiduciary responsibility without the express permission of his probation officer, and that he pay restitution of \$200,000. The losses Respondent caused to credit card companies totaled over \$400,000; however, the court determined that Respondent would be unable to repay more than

\$200,000. The court determined, also, that he would not be able to pay interest. Respondent's probation officer is to set the rate at which Respondent pays the restitution.

5. The crime of which Respondent was convicted is one involving moral turpitude.

6. Within the terms of section 2910, Title 10, California Code of Regulations, the crime of which Respondent was convicted is one that is substantially related to the qualifications, functions, or duties of a real estate licensee.

7. The events that gave rise to Respondent's conviction occurred during the period of January 1986 through October of 1991. He applied for and obtained 102 credit cards using false names and false statements of earnings. In October of 1991 respondent was served with a subpoena in connection with an FBI investigation and stopped using the credit cards. Over \$400,000 in cash advances, charges, and interest went unpaid.

8. Respondent is 58 years old. He holds a law degree from a school in Haiti and a masters degree in business. He was licensed as a salesperson in 1984 and as a broker in 1994. He is married. He has children, one of whom is 18 years old and resides with Respondent and his wife. Before 1984 Respondent worked as a financial officer for a few nonprofit organizations. From 1984 to 1994 he worked as a real estate salesperson and in 1994 went into business in San Leandro as a loan broker.

9. Respondent has served five months of the 15 months required in a halfway house. His probation officer has set his payments on the restitution at \$200 per month, and he has paid a total of \$800.

10. Respondent always intended to pay the credit card companies and for many years did pay them. He used the funds he obtained to make real estate investments that he lost through foreclosure.

11. Respondent declares that he is ashamed of having falsified the credit card applications, that he accepts responsibility for having done something very wrong, and that he never again will make a misrepresentation. His remorse and shame have taken a heavy toll on both his physical and emotional health.

12. Respondent's dishonesty did not involve his clients. In fact, it appears that he has worked diligently on behalf of his clients. Seven clients and business associates submitted letters of support on Respondent's behalf. All of them were aware of Respondent's crime. They paint a picture

of a man who, one would expect, would be incapable of falsifying credit card applications. They described Respondent, variously, as generous, patient, honest, reliable, kind, professional, charitable, knowledgeable, dependable, compassionate, ethical, modest, honorable, loyal, concerned, wise, trustworthy, helpful, nurturing, inquiring, intelligent, humorous, sensitive, industrious, and inspiring. Most of these commendations were particularly convincing, giving examples of Respondent's conduct and relating the writers' personal experiences with him. Most of these clients and associates insisted that falsifying loan applications was something that was completely out of character for Respondent.

13. Respondent's wife of 13 years, also, submitted a letter in his support. She described Respondent as generous, hardworking, responsible, loyal, and honest.

14. Respondent has been involved in community activities for a number of years, including the years during which he was making false credit card applications. He is active in Gregory St Paul Baptist Church, where he works approximately four hours a week as a mentor and tutor. Through his business he has provided a scholarship program for students. He has sponsored softball teams for underprivileged children. He has provided clerical jobs for many high school students in his office, not because he particularly needed help but in order to help them gain some experience and learn the value of being industrious. Because he has done these things for years, they do not show rehabilitation so much as they tend to corroborate the statements of clients and business associates that Respondent's falsifying credit card applications was completely out of character for him.

15. Respondent has had no other known infractions.

DETERMINATION OF ISSUES

1. By reason of the matters set forth in Findings 3 through 6, it is determined that Respondent has been convicted of a crime that involved moral turpitude and that is substantially related to the qualifications, functions, or duties of a licensee. Thus, cause to suspend or revoke Respondent's license exists pursuant to Business and Professions Code sections 490 and 10177(b).

2. It is true that it has been over five years since Respondent engaged in the criminal conduct that gave rise to his conviction; however, he did not stop using the fraudulently obtained credit cards until he was served with a subpoena. Further, because Respondent's conviction was as recent as it was, September of 1996, and because he will be on probation until 2001, it would not be in the public interest

for him to hold a restricted license at this time. Moreover, while Respondent has many admirable qualities, making 102 false credit card applications over the course of six years cannot be seen as merely an aberration.

ORDER

All licenses and licensing rights of Respondent Serge F. M. Chaumette under the Real Estate Law are revoked.

DATED:

July 11, 1997

Robert Walker
ROBERT WALKER
Administrative Law Judge
Office of Administrative Hearings

FILED
APR 15 1997

DEPARTMENT OF REAL ESTATE

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

By *Lucia A. Z...*

In the Matter of the Accusation of

SERGE F. M. CHAUMETTE,

Case No. H-7414 SF

OAH No. N-9612091

Respondent

**FIRST AMENDED
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

Office of Administrative Hearings, World Savings Tower, 1970

Broadway, Second Floor, Oakland, CA 94612

on Wednesday, June 11th, 1997, at the hour of 1:30 PM,
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.

DEPARTMENT OF REAL ESTATE

Dated: April 15, 1997

By *James L. Beaver*
JAMES L. BEAVER Counsel

FILED
DEC 12 1996
DEPARTMENT OF REAL ESTATE

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

By Lauriel A. Zain

In the Matter of the Accusation of

SERGE F. M. CHAUMETTE,

Case No. H-7414 SF

OAH No. _____

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 the
Office of Administrative Hearings, World Savings Tower, 1970 Broadway,
Second Floor, Oakland, CA 94612

on Wednesday, April 9th, 1997, at the hour of 9:00 AM,
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: December 12, 1996

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER *Counsel*

1 LARRY A. ALAMAO, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
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7 Telephone: (916) 227-0789
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FILED
NOV 26 1996
DEPARTMENT OF REAL ESTATE

Laurie A. Zain

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation of)
11 SERGE F. M. CHAUMETTE,) No. H-7414 SF
12 Respondent.) ACCUSATION
13 _____)

14 The Complainant, Les R. Bettencourt, a Deputy Real
15 Estate Commissioner of the State of California, for cause of
16 Accusation against SERGE F. M. CHAUMETTE (hereinafter
17 "Respondent"), is informed and alleges as follows:

18 I

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

23 II

24 The Complainant, Les R. Bettencourt, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation against Respondent in his official capacity.

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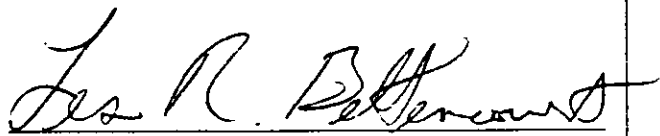
III

On or about September 20, 1996, in the United States District Court for the Northern District of California, Respondent was convicted of violation of Title 18, United States Code, Section 1029(a)(1) (Use of One or More Counterfeit Access Devices), 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

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

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



LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California,
this 13th day of November, 1996.