



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

9  
10 NOW, THEREFORE, IT IS ORDERED that Respondent's  
11 petition for reinstatement is granted and that a real estate  
12 salesperson license be issued to Respondent, if Respondent  
13 satisfies the following conditions within nine (9) months  
14 from the date of this Order:

15 1. Submittal of a completed application and payment  
16 of the fee for a real estate salesperson license.

17 2. Submittal of evidence of having, since January 9,  
18 1998, taken and successfully completed the continuing education  
19 requirements of Article 2.5 of Chapter 3 of the Real Estate  
20 Law for renewal of a real estate license.

21 This Order shall be effective immediately.

22 Dated: January 30, 2002.

23 PAULA REDDISH ZINNEBANN  
24 Real Estate Commissioner

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27 cc: Mojgan Rastegar  
272 South Lasky Dr., # 301  
Beverly Hills, CA 90212

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**FILED**  
JAN 12 1998  
DEPARTMENT OF REAL ESTATE  
By [Signature]

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) No. H-27251 LA  
MOJGAN RASTEGAR )  
Respondent. )

ORDER DENYING RECONSIDERATION

On November 11, 1997, a Decision was rendered in the above entitled matter. The Decision is to become effective on January 9, 1998.

On December 3, 1997, Respondent petitioned for reconsideration of the Decision of November 11, 1997.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of November 11, 1997, and reconsideration is hereby denied.

IT IS SO ORDERED 1/8 1998.

JIM ANTT, JR.  
Real Estate Commissioner

[Signature]

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DEPARTMENT OF REAL ESTATE

By: [Signature]

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27251 LA
	)	
MORGAN RASTEGAR,	)	
	)	
Respondent(s).	)	
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ORDER STAYING EFFECTIVE DATE

On November 11, 1997, a Decision was rendered in the above-entitled matter to become effective December 10, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of November 11, 1997, is stayed for a period of 30 days.

The Decision of November 11, 1997, shall become effective at 12 o'clock noon on January 9, 1998.

DATED: December 8, 1997.

JIM ANTT, JR.  
Real Estate Commissioner

By: [Signature]  
RANDOLPH BRENDIA  
Regional Manager

JRP:rg

*Fact*

**FILED**  
NOV 20 1997

DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-27251 LA
)	)
MOJGAN RASTEGAR,	) L-1997070493
)	)
)	)
Respondent.	)
)	)

DECISION

The Proposed Decision dated October 21, 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 December 10, 1997.

IT IS SO ORDERED 11/11/97

JIM ANTT, JR.  
Real Estate Commissioner

*[Signature]*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )  
MOJGAN RASTEGAR, )  
Respondent. )  
\_\_\_\_\_ )

Case No. H-27251 LA  
OAH No. L-1997070493

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on October 7, 1997.

Complainant, Thomas McCrady, was represented by James R. Peel, Real Estate Counsel.

Respondent, Mojgan Rastegar ("Respondent"), was present and was represented by William J. Slattery, Attorney at Law.

Oral and documentary evidence was received, and the matter was submitted for decision.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Thomas McCrady, Complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.

2. Respondent was issued a license as a real estate salesperson by the Department of Real Estate ("the Department") in March of 1986. The license will expire on March 20, 1998 unless renewed.

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3. On September 27, 1996, in Municipal Court of California, County of Los Angeles, Los Angeles Judicial District, in Case No. 6WL03146, Respondent was convicted, on her plea of nolo contendere, of violation of Penal Code section 484(a) (Theft of Property), a crime involving moral turpitude, and one substantially related to the qualifications, functions and duties of a real estate licensee.

4. Respondent was placed on probation for a period of eighteen (18) months under terms and conditions, and was ordered to pay fines and restitution totalling five hundred forty dollars (\$540). On July 18, 1997, approximately ten (10) months after the conviction, the court terminated probation and dismissed the complaint.<sup>1</sup>

5. The conviction resulted from an incident which occurred at a Macy's Department Store. Respondent's 18-year-old daughter had received a purse as a gift. She did not like the purse and wished to return it to Macy's. (The evidence did not disclose whether the purse had actually come from Macy's.) Macy's had denied carrying that purse. On the day in question, Respondent located an identical purse in Macy's. She removed the sixty-dollar (\$60) price tag from that purse, intending to bring it back with her daughter's purse. However, she was so nervous about her actions, she walked out of the store holding the purse which had been on display at Macy's and from which she had removed the price tag.

6. Respondent's testimony stretched credulity in that it was difficult to understand how she could have failed to notice she was carrying something the size of a purse when she only intended to take the price tag. Further, she failed to explain why she did not simply bring her daughter's purse back to Macy's and demonstrate to Macy's personnel its comparison with the one on display.

7. Respondent is employed full-time as a real estate salesperson. Her broker is aware of her conviction. Respondent expressed remorse for the incident.

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<sup>1</sup>Respondent testified the complaint was dismissed pursuant to Penal Code section 1203.4. However, it is more likely the motion was made pursuant to 1203.3 which provides for dismissal prior to the completion of probation.

### DETERMINATION OF ISSUES

Pursuant to the foregoing Findings of Fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to suspend or revoke Respondent's real estate salesperson's license for conviction of a crime, pursuant to the provisions of Business & Professions Code section 490 and 10177(b), as set forth in Findings 3, 4 and 5.

While the basis for discipline of Respondent's real estate salesperson's license in this case is the conviction of a crime, Respondent knew that the very act of removing the price tag from the purse at Macy's and taking it home with her was the wrong thing to do. Respondent evidenced her knowledge of wrongdoing when she testified she was so nervous committing the act, she forgot she had the purse in her hands when she left the store. Accordingly, the act of removing the price tag and taking it with her, with the knowledge of wrongdoing, may be considered a factor in aggravation.

On the other hand, Respondent has satisfied several of the criteria for rehabilitation set forth in Title 10, California Code of Regulations, section 2912. For example, she has paid restitution, has had the case dismissed (expunged), and has been granted early termination of probation. Nonetheless, given the recency of the conviction, the nature of the act which resulted in the conviction, and Respondent's questionable credibility, a substantial degree of discipline is indicated in this case.

### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Mojgan Rastegar, under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to 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 that Code:

1. Any restricted real estate license issued to Respondent pursuant to this Decision shall be suspended for one hundred twenty (120) days from the date of issuance of said restricted license.

2. The 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 is substantially related to Respondent's fitness or capacity as a real estate licensee.

3. The 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 attaching to the restricted license.

4. 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 a restricted license until three (3) years have elapsed from the effective date of this Decision.

5. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

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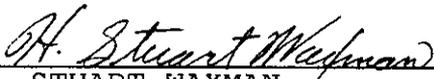
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6. Respondent shall, within twelve (12) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance of an original or renewal real estate license, taken 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 Procedure Act to present such evidence.

7. Respondent shall, within six 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 license until Respondent passes the examination.

DATED: October 21, 1997

  
\_\_\_\_\_  
H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings

Sacto

196-1015-009

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
AUG 06 1997  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation and

MOJAN RASTEGAR,

Respondent.

By

*R. D. [Signature]*

)  
) NOTICE OF HEARING ON ACCUSATION  
)  
) Case No. H-27251 LA  
) L- 199-7070-493

**To the above-named Respondents:**

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, 2nd. Floor, Los Angeles, California 90012 on OCTOBER 7, 1997 at 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: August 6, 1997

DEPARTMENT OF REAL ESTATE

By: *James R. Peel*  
JAMES R. PEEL  
DRE Counsel

cc: MOJAN RASTEGAR  
AK, OAH & SACTO

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JAMES R. PEEL, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California, 90012

(213) 897-3937

**FILED**  
JUN 11 1997

DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	
MOJGAN RASTEGAR, )	H-27251 LA
Respondent. )	<b>A C C U S A T I O N</b>

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MOJGAN RASTEGAR, alleges as follows:

I.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation, in his official capacity.

II.

MOJGAN RASTEGAR, (hereinafter "Respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1. of Division 4 of the California Business and Professions Code (hereinafter "Code").

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III.

At all times herein mentioned, respondent was licensed by the Department of Real Estate of the State of California (hereafter "Department") as a real estate salesperson.

IV.

On or about September 27, 1996, in the Municipal Court, County of Los Angeles, State of California, respondent was convicted of violating Penal Code Section 484 (petty theft), a crime involving moral turpitude.

V.

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

VI

Respondent's criminal conviction is 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.

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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, MOJGAN RASTEGAR 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 applicable provisions of law. Dated at Los Angeles, California, this 11th day of June 1997.

THOMAS MC CRADY /  
Thomas McCrady,  
Deputy Real Estate Commissioner

cc: MOJGAN RASTEGAR  
Sacto  
DH  
JRP/rd