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FILED
SEP 21 2000

DEPARTMENT OF REAL ESTATE

By Shelly Elzy

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
RICHARD W. SHUBEN,)
Respondent.)

No. H-27412 LA

ORDER GRANTING REINSTATEMENT OF LICENSE

On October 20, 1998, a Decision After Rejection was rendered herein revoking the real estate broker license of Respondent, 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 November 17, 1998, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On November 19, 1999, 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.

1 I have considered the petition of Respondent and the
2 evidence and arguments 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 broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

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

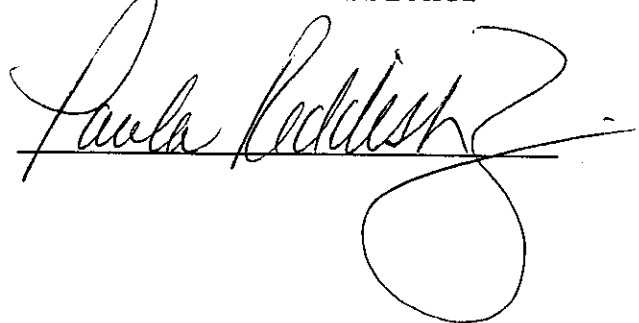
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

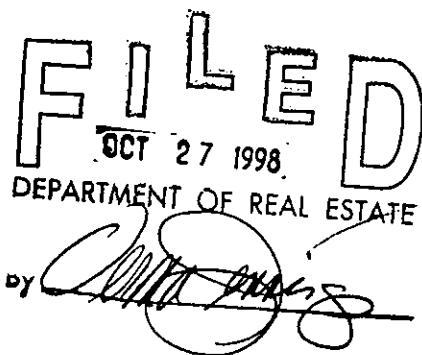
15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: September 13, 2000

22 PAULA REDDISH ZINNEMANN
23 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-27412 LA
	)	
RICHARD W. SHUBEN,	)	L-1998010105
	)	
Respondent.	)	

DECISION AFTER REJECTION

This matter came on for hearing before Samuel D. Reyes, Administrative Law Judge of the Office of Administrative Hearings in Los Angeles, California, on April 7, 1998.

V. Ahda Sands, Counsel, represented the Complainant.

RICHARD W. SHUBEN appeared in propria persona.

The Administrative Law Judge submitted a Proposed Decision dated May 5, 1998, 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 notice of my determination not to adopt the decision of the Administrative Law Judge along with a copy of said Proposed Decision. On June 5, 1998, Respondent was notified that the

1 case would be decided by me upon the record, the transcript of
2 proceedings held on April 7, 1998, and upon any written argument
3 offered by Respondent. Respondent submitted written
4 argument.

5 I have given careful consideration to the record in
6 this case including the transcript of the proceedings of April 7,
7 1998.

8 The following shall constitute the Decision of the Real
9 Estate Commissioner in this proceeding:

10 FINDINGS OF FACT

11 I have determined that the Findings of Facts as stated
12 in the Proposed Decision of the Administrative Law Judge dated
13 May 5, 1998, are appropriate in all respects and they are adopted
14 as the Findings of Fact of the Real Estate Commissioner in this
15 proceeding.

16 DETERMINATION OF ISSUES

17 Determination of Issues 1 and 2 as stated in the
18 Proposed Decision of the Administrative Law Judge dated May 5,
19 1998, are appropriate in all respects and they are adopted as the
20 Determination of Issues of the Real Estate Commissioner in this
21 proceeding. Determination of Issues 3 is not adopted as the
22 proposed Order does not adequately protect the public.

23 ORDER

24 The Order set forth in the Proposed Decision is not
25 appropriate in that the discipline imposed is not in accordance
26 with the magnitude and severity of the violations set forth in
27



1 the Determination of Issues. The following order shall be the
2 Order of the Real Estate Commissioner:

3 All licenses and licensing right of Respondent RICHARD
4 W. SHUBEN under the Real Estate Law are revoked; provided,
5 however, a restricted real estate salesperson license shall be
6 issued to Respondent pursuant to Section 10156.5 of the Business
7 and Professions Code if Respondent makes application therefor and
8 pays to the Department of Real Estate the appropriate fee for the
9 restricted license within 90 days from the effective date of this
10 Decision. The restricted license issued to Respondent shall be
11 subject to all of the provisions of Section 10156.7 of the
12 Business and Professions Code and to the following limitations,
13 conditions and restrictions imposed under authority of Section
14 10156.6 of that Code:

15 1. The restricted license issued to Respondent may
16 be suspended prior to hearing by Order of the Real
17 Estate Commissioner in the event of Respondent's
18 conviction or plea of nolo contendere to a crime which
19 is substantially related to Respondent's fitness or
20 capacity as a real estate licensee.

21 2. The restricted license issued to Respondent may
22 be suspended prior to hearing by Order of the Real
23 Estate Commissioner on evidence satisfactory to the
24 Commissioner that Respondent has violated provisions of
25 the California Real Estate Law, the Subdivided Lands
26 Law, Regulations of the Real Estate Commissioner or
27 conditions attaching to the restricted license.



1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for
3 the removal of any of the conditions, limitations or
4 restrictions of a restricted license until one year
5 has elapsed from the effective date of this
6 Decision.

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

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

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

21 5. Respondent shall, within nine months from the
22 effective date of this Decision, present evidence
23 satisfactory to the Real Estate Commissioner that
24 Respondent has, since the most recent issuance of an
25 original or renewal real estate license, taken and
26 successfully completed the continuing education
27

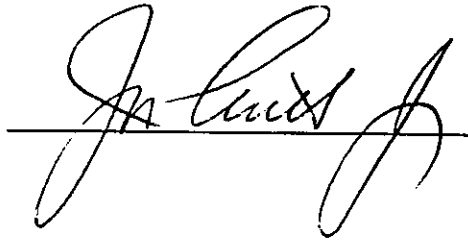


1 requirements of Article 2.5 of Chapter 3 of the Real
2 Estate Law for renewal of a real estate license. If
3 Respondent fails to satisfy this condition, the
4 Commissioner may order the suspension of the restricted
5 license until the Respondent presents such evidence.
6 The Commissioner shall afford Respondent the
7 opportunity for a hearing pursuant to the
8 Administrative Procedure Act to present such evidence.
9 This Decision shall become effective at 12 o'clock noon
10 on November 17, 1998.

11 IT IS SO ORDERED 10/20, 1998.

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13 JIM ANTT, JR.
Real Estate Commissioner

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Ray

FILED
JUN - 5 1998
DEPARTMENT OF REAL ESTATE
[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
RICHARD WARREN SHUBEN,	)	NO. H-27412 LA
Respondent.	)	L-1998010105

NOTICE

TO: Respondent RICHARD WARREN SHUBEN.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated May 5, 1998, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated May 5, 1998, 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 April 7, 1998, and any written argument hereafter submitted on behalf of Respondent and Complainant.

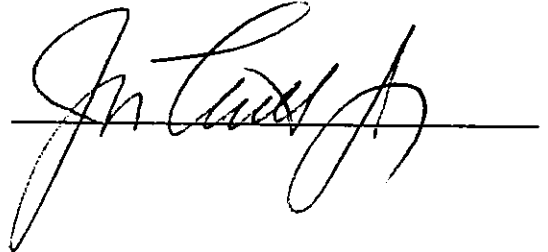
1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of April 7, 1998, at the Los Angeles office of
4 the Department of Real Estate unless an extension of the time is
5 granted for good cause shown.

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

11 DATED: _____

6/3/98

12 JIM ANTT, JR.
13 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the matter of the Accusation)	
Against:)	Case No. H-27412 LA
RICHARD WARREN SHUBEN,)	
Respondent.)	OAH No. L-1998010105
_____)	

PROPOSED DECISION

This matter came regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on April 7, 1998, in Los Angeles, California.

V. Ahda Sands, Counsel, represented complainant. Respondent appeared in propria persona.

Oral and documentary evidence was received at the hearing and the matter was thereafter submitted for decision. The Administrative Law Judge makes the following findings of fact:

FINDINGS OF FACT

1. The accusation was filed by Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, solely in his official capacity.

2. Respondent was first licensed as a real estate salesperson on November 3, 1992. He became a real estate broker on June 13, 1996. His license, number 1148198, expires on June 12, 2000.

3. On October 25, 1996, in the Municipal Court, Van Nuys Judicial District, County of Los Angeles, State of California, in case number 6PN07352, respondent was convicted, following his plea of nolo contendere, of violating Penal Code sections 484(a) and 664 (attempted petty theft). Imposition of sentence was suspended and respondent was placed on summary probation for twelve months on terms and conditions which included payment of \$505 in fines and restitution.

4. The facts and circumstances surrounding the conviction are as follows. At a Fry's Electronics retail outlet, respondent placed a higher-value computer component in the box of a lower-priced part and attempted to purchase the higher-cost part for the price of the cheaper component.

5. Respondent's conviction is for a crime which involves dishonesty. The conviction therefore involves moral turpitude and is substantially related to the qualifications, functions, and duties of a real estate broker.

6. Respondent is no longer on probation. He complied with all of its terms and conditions. He has no other criminal record.

7. He acknowledges that his conduct was wrong. He showed remorse at the hearing and vowed not to engage in criminal conduct again.

8. Respondent has been working for his brother, also a real estate broker, soliciting real property loans.

9. Respondent is thirty-three years old. He was recently married and has a two-week old son.

10. Except as set forth in this Decision, all other allegations in the Accusation are surplusage or lack merit.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

DETERMINATION OF ISSUES

1. Grounds exist pursuant to Business and Professions Code section 490 to suspend or revoke respondent's license because he was convicted of a crime substantially related to the qualifications, functions, and duties of a real estate broker, by reason of finding of fact numbers 3, 4, and 5.

2. Grounds exist pursuant to Business and Professions Code section 10177(b) to suspend or revoke respondent's license because he was convicted of a crime involving moral turpitude and substantially related to the qualifications, functions, and duties of a real estate salesperson, by reason of finding of fact numbers 3, 4, and 5.

3. All evidence offered in mitigation and rehabilitation has been considered. In light of this evidence, the order which follows will adequately protect the public.

Not adopted

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent Richard Shuben under the Real Estate Law are revoked; provided, however, a restricted real estate broker 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. 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.

2. 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.

3. 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.

4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent 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.

5. Respondent shall continue in the employment of his brother or in the employment of another real estate broker approved by the Department.

Respondent shall submit to the Department a statement signed by his brother as 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.

In seeking approval for a new employing broker, respondent shall submit a new certification from the new prospective broker.

6. 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: 5/5/98



SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

SMU.
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB 26 1998
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)

RICHARD WARREN SHUBEN,)

Respondent.)

Case No. H-27412 LA

OAH No. L-1998010105

By: 

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, 107 South Broadway, 2nd Floor, Los Angeles, California, on **April 7, 1998**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation 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.

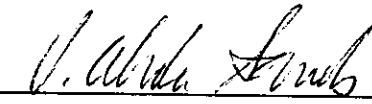
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real 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: February 26, 1998.

DEPARTMENT OF REAL ESTATE

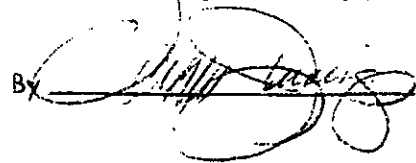
cc: Richard Warren Shuben
Sacto.
OAH

By: 
V. AHDA SANDS, Counsel

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Flag

1 V. AHDA SANDS, Counsel
2 State Bar No. 146983
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012
6
7
8 (213) 897-3937
9

FILED
DEC 19 1997
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of) No. H-27412 LA
12)
13 RICHARD WARREN SHUBEN,) A C C U S A T I O N
14)
15 Respondent.)
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15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against RICHARD WARREN SHUBEN (hereinafter "Respondent") is
18 informed and alleges as follows:

19 1.

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

24 2.

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



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6.

Respondent was originally licensed by the Department of Real Estate of the State of California (Department) as a real estate broker on November 3, 1992.

On or about October 25, 1996, in the Los Angeles Municipal Court, Van Nuys Judicial District, Los Angeles County, Respondent was convicted of violation of Section 664-484(a) of the California Penal Code (Attempted Theft), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, Chapter 6 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

In aggravation, Respondent was sentenced to one year probation. Respondent's probation status ended on October 25, 1997.

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

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

9 Dated at Los Angeles, California
10 this 19th day of December, 1997.

11 *Don M. Hall*
12 For THOMAS McCrack
13 Deputy Real Estate Commissioner

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24 cc: Richard Warren Shuben
25 Sacto.
26 CW
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