

FILED
NOV 21 2000
DEPARTMENT OF REAL ESTATE

By Jana B. Duna

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of) DRE No. H-28547 LA
AUDREY MAE MOSSIAH,) OAH No. L-2000060012
Respondent.)
_____)

DECISION AFTER REJECTION

The matter came on for hearing before David B. Rosenman, Administrative Law Judge, of the Office of Administrative Hearings, in Los Angeles, California, on July 5, 2000.

Elliott Mac Lennan, Counsel, represented the Complainant. Respondent represented herself.

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

On July 26, 2000, the Administrative Law Judge submitted 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. On August 28, 2000, Respondent was notified that the
4 case would be decided by me upon the record, the transcript of
5 proceedings held on July 5, 2000, and upon written argument
6 offered by Respondent.

7 I have given careful consideration to the record in
8 this case, including the transcript of proceedings of July 5,
9 2000, and the argument submitted by Respondent and determined
10 that the original Proposed Decision should be adopted as the
11 Decision of the Real Estate Commissioner in this matter.

12 ORDER

13 The original Proposed Decision dated July 26, 2000, is
14 hereby adopted as the Decision of the Real Estate Commissioner in
15 this matter.

16 This Decision shall become effective at 12 o'clock noon
17 on December 11, 2000.

18 IT IS SO ORDERED *November 15, 2000.*

19 PAULA REDDISH ZINNEMANN.
20 Real Estate Commissioner

21 *Paula Reddish Zinnemann*
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FILED
AUG 28 2000
DEPARTMENT OF REAL ESTATE

By *Laura B. Chan*

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

In the Matter of the Application of)	
AUDREY MAE MOSSIAH,	No. H-28547 LA
	L-2000060012
Respondent.	

NOTICE

TO: Respondent AUDREY MAE MOSSIAH.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 26, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 26, 2000, 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 July 5, 2000, and any written argument hereafter submitted on behalf of Respondent and Complainant.

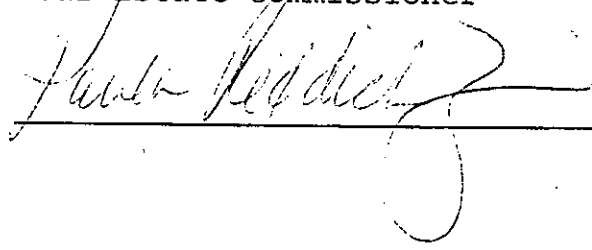
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Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of July 5, 2000, at the Los Angeles office of the Department of Real Estate unless an extension of the time is 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 Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: August 16, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of
Issues Against:

AUDREY MAE MOSSIAH,

Respondent.

DRE Case No. H-28547 LA

OAH No. L2000060012

PROPOSED DECISION

This matter came on regularly for hearing before David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California, at Los Angeles, California on July 5, 2000. Complainant Thomas McCrady and the Department of Real Estate ("DRE") were represented by Elliott Mac Lennan, Staff Counsel. Respondent Audrey Mae Mossiah appeared and represented herself.

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

FACTUAL FINDINGS

The Administrative Law Judge finds the following facts:

1. The Statement of Issues was made by Thomas McCrady, a Deputy Real Estate Commissioner, in his official capacity.
2. Respondent filed an application for a real estate salesperson's license on March 17, 1999. When the DRE denied the application, respondent requested this hearing.
3. On August 25, 1992, in the Las Vegas District Court, Clark County, State of Nevada, in Case No. 92-C-106638-C, respondent was convicted, by plea of guilty, of violating Nevada Revised Statutes, §§205.760 and 193.330 (attempted fraudulent use of a credit card), a felony and crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate salesperson under the criteria referred to in California Code of Regulations, Title 10, §2910.

Respondent was sentenced to serve two years in prison, however the sentence was suspended and respondent was placed on probation for two years under various terms and conditions. Respondent completed her sentence.

4. The facts and circumstances underlying respondent's conviction are that, on February 10, 1992, she attempted to use a forged credit card to obtain \$700. Two other people were involved, one of whom was the "ringleader" who supplied the credit card to respondent

5. On June 16, 1994, in the Municipal Court of the Central Orange County Judicial District, State of California, in Case No. 91CM17450, respondent was convicted by plea of guilty of violating Penal Code §487(1) (grand theft of personal property), a misdemeanor and crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate salesperson under the criteria referred to in California Code of Regulations, Title 10, §2910.

Respondent was sentenced to pay fines and penalty assessments. When she indicated she could not pay, she was sentenced to serve 15 days in county jail. Respondent served 7 days and was released as if she had completed her sentence.

6. The facts and circumstances underlying respondent's conviction are that, on December 28, 1991, respondent shoplifted a jacket from a department store.

7. Respondent revealed these convictions in her application, as well as a shoplifting conviction in Los Angeles in 1990 (which has not been alleged as a basis for the denial of her application).

8. Respondent has had no further trouble with the law since she completed her sentence in 1994, and her last criminal act leading to conviction was in February 1992. After release from jail, she worked as a salesperson at department stores from July 1994 to December 1997. She began temporary work in November 1997 for Teleflora, which became a permanent job in March 1998. Respondent still has this job, in sales and marketing of supplies and advertising to Teleflora's member florists.

Respondent began taking community college courses in early 1998, including real estate courses. She would like to obtain her license to work more independently and for self-advancement and to learn the subject of property appraisal.

On a more personal level, respondent is the sole support for her two children, ages 10 and 12. She is very active with the Jehovah's Witnesses, having joined in 1995 or 1996, and actively studies the bible and tries to teach her children and others how to change their lives and be better people.

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9. The DRE has established criteria for rehabilitation from the denial of a license based upon conviction of a crime, found at California Code of Regulations, Title 10, section 2911, as follows:

Subsection (a), requiring the passage of at least two years since the conviction, or more if there is a history of acts;

Subsection (b), restitution;

Subsection (c) suggests expungement of the conviction;

Subsection (d) requires completion of the criminal probation;

Subsection (e), abstinence from drugs or alcohol that contributed to the crime;

Subsection (f), payment of any fines;

Subsection (g), stability of family life and fulfillment of parental responsibility;

Subsection (h), enrollment in or completion of educational or training courses;

Subsection (i), discharge of debts to others;

Subsection (j), correction of business practices leading to the conviction;

Subsection (k), involvement in community, church or private programs for social betterment;

Subsection (l), new and different social and business relationships; and

Subsection (m), change in attitude from the time of conviction to the present;

10. Respondent expressed remorse about the incidents leading to her convictions. She was candid in her testimony, demonstrating that she has accepted responsibility for her prior acts. Respondent recognizes that these acts were mistakes and pledges not to repeat them by her demeanor, conduct and testimony, respondent demonstrated that she is sufficiently rehabilitated to be issued a restricted salesperson's license.

CONCLUSIONS OF LAW

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Grounds exist to deny respondent's application for a salesperson's license pursuant to Business and Professions Code section 480(a)(1), as that section interacts with section 10177(b), for conviction of a crime, as set forth in Findings 2, 3, 4, 5 and 6.

2. Respondent has established sufficient evidence of rehabilitation to be granted a license, as set forth in Findings 2 through 10. The criteria of rehabilitation (Finding 9) and the evidence of respondent's recovery (Findings 7, 8 and 10) demonstrate that respondent has turned a corner and is on her way back from her violations of the law. It has been more than 8 years since her last criminal act. She has changed many aspects of her life, demonstrating additional responsibility and maturity. If respondent can function appropriately for one year under a restricted license, she will demonstrate sufficient rehabilitation for full licensure.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application for an unrestricted real estate salesperson's license of respondent Audrey Mae Mossiah is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Business and Professions Code §10156.5. The restricted license issued to the Respondent shall be subject to all of the provisions of Business and Professions Code §10156.7 and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

adapted
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 one year has 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.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Business and Professions Code §10153.4, to wit: 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

~~Section 10153.2~~
adapted
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: July 26, 2000.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

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FILED
JUN 13 2000
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-28547 LA
) L-2000060012
)
AUDREY MAE MOSSIAH,)
)
)
Respondent(s))

By Jama B. Orone

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 Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on **JULY 5, 2000** at the hour of **11:00 a.m.**, 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.

Dated: JUN 13 2000

DEPARTMENT OF REAL ESTATE

By: e. m. l.
ELLIOTT MAC LENNAN, Counsel

cc: Audrey Mae Mosiah
Sacto.
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Elliott Mac Lennan, Counsel SBN 66674
Department of Real Estate
320 W. 4th Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6911

FILED
MAY 10 2000
DEPARTMENT OF REAL ESTATE

By Laura B. Olson

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)	No. H-28547 LA
AUDREY MAE MOSSIAH,)
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Respondent.)
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STATEMENT OF ISSUES

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against AUDREY MAE MOSSIAH aka Audrey Sherron Ross, and Tiffany Rosenfield, is informed and alleges in his official capacity as follows:

1

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about March 17, 1999, subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

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On August 25, 1992, in the Las Vegas Justice District Court, Clark County State of Nevada, respondent was convicted upon a guilty plea to one count of violating the following sections of the Nevada Revised Statutes (NRS) 205.760, 193.330 (attempted fraudulent use of a credit card), a felony crime that occurred on February 10, 1992.

3

On June 16, 1994, in the Municipal Court of Central Orange County Judicial District, State of California, respondent was convicted by judge or jury of violating one count of Section 487(1) of the California Penal Code (grand theft of personal property), a misdemeanor crime occurring on December 28, 1991,

4

These crimes by their facts and circumstances involve moral turpitude and are substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee and constitute cause for denial of respondent's application for a real estate license under Sections 480(a) and 10177(b) of the Code.

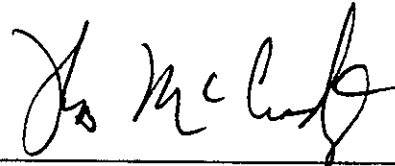
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2 These proceedings are brought under the provisions of
3 Section 10100, Division 4 of the Business and Professions Code
4 of the State of California and Sections 111500 through 11528 of
5 the Government Code of the State of California.

6 WHEREFORE, the Complainant prays that above-
7 entitled matter be set for hearing and, upon proof of the
8 charges contained herein, that the Commissioner refuse to
9 authorize the issuance of, and deny the issuance of, a
10 real estate salesperson license to respondent, AUDREY MAE
11 MOSSIAH, and for such other and further relief as may be
12 proper in the premises.

13 Dated at Los Angeles, California

14 This 10th day of May, 2000.



17 Deputy Real Estate Commissioner

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26 cc: Audrey Mae Mossiah
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SR