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FILED
JUN 21 2002

DEPARTMENT OF REAL ESTATE

By K. H. Schubert

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DIANA LUO,) DRE NO. H-28570 LA
Respondent.) OAH NO. L-2000060339
)
)

ORDER MODIFYING DISCIPLINARY ACTION
PURSUANT TO STIPULATED SETTLEMENT

In consideration for the dismissal with prejudice and in complete settlement of Respondent's said Petition for Writ of Administrative Mandamus, with each party to bear her or its own costs, the following order is made:

NOW, THEREFORE, IT IS ORDERED that all licenses and
licensing rights of Respondent DIANA LUO under the Real Estate
Law are revoked; provided, however, a restricted real estate
salesperson license shall be issued to Respondent pursuant to
Section 10156.5 of the Business and Professions Code if
Respondent makes application therefore and pays to the Department

1 of Real Estate the appropriate fee for the restricted license
2 within 90 days from the effective date of this Decision. The
3 restricted license issued to Respondent shall be subject to all
4 of the provisions of Section 10156.7 of the Business and
5 Professions Code and to the following limitations, conditions and
6 restrictions imposed under authority of Section 10156.6 of that
7 Code:

8 1. The restricted license issued to Respondent may be
9 suspended prior to hearing by Order of the Real Estate
10 Commissioner in the event of Respondent's conviction or plea of
11 nolo contendere to a crime which is substantially related to
12 Respondent's fitness or capacity as a real estate licensee.

13 2. The restricted license issued to Respondent may be
14 suspended prior to hearing by Order of the Real Estate
15 Commissioner on evidence satisfactory to the Commissioner that
16 Respondent has violated provisions of the California Real Estate
17 Law, the Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner or conditions attaching to the restricted license as
19 stated in this Order.
20

21 3. Respondent shall not be eligible to apply for the
22 issuance of an unrestricted real estate license nor for the
23 removal of any of the conditions, limitations or restrictions of
24 a restricted license until two years have elapsed from the
25 effective date of the Decision.
26
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1 4. Respondent shall, within nine months from the effective
2 date of this Decision, present evidence satisfactory to the Real
3 Estate Commissioner that Respondent has, since the most recent
4 issuance of an original or renewal real estate license, taken and
5 successfully completed the continuing education requirements of
6 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
7 real estate license. If Respondent fails to satisfy this
8 condition, the Commissioner may order the suspension of the
9 restricted license until Respondent presents such evidence.

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

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

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

22
23 This Order shall take effect 60 days from the date of
24 signing. However, the Department shall stay the operation of
25 this Order until a restricted real estate salesperson license is
26 issued to Respondent DIANA LUO by the Department. The pending
27

1 Petition for Writ of Administrative Mandamus shall remain in
2 effect and will be dismissed only upon the Department's issuance
3 of a restricted real estate salesperson license to Respondent,
4 pursuant to paragraph 3 of the signed "Stipulation To Entry of
5 Dismissal" on file with the Superior Court.

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7 Date: June 16, 2002
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10 Paula Reddish Zinnemann
11 Real Estate Commissioner
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Per RE 561B (sent by
LA Legal), effective
date is 8-15-02

*Sucto
2/28/01*

FILED

MAR 12 2001

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-28570 LA
)
) OAH No. L-2000060339
DIANA LUO)
)
Respondent.)

ORDER DENYING RECONSIDERATION

On January 4, 2001, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on January 31, 2001.

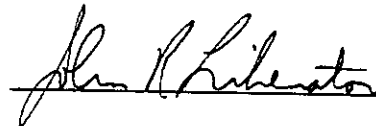
Orders Staying Effective Date were issued staying the effective date for a period of forty (40) days until 12 o'clock noon on March 12, 2001.

On January 24, 2001, respondent petitioned for reconsideration of the Decision of January 4, 2001, and submitted argument in support of her petition for reconsideration on February 20, 2001.

1 I have given due consideration to the petition of
2 respondent. I find no good cause to reconsider the Decision of
3 January 4, 2001, and reconsideration is hereby denied.

4 IT IS SO ORDERED March 12, 2001.

5 PAULA REDDISH ZINNEMANN
6 Real Estate Commissioner

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11 BY: John R. Liberator
12 Chief Deputy Commissioner
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Sect 166

FILED
FEB 27 2001
DEPARTMENT OF REAL ESTATE

By Laura B. Olson

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THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	
DIANA LUO,	)
	)
Respondent.	)

H-28570 LA

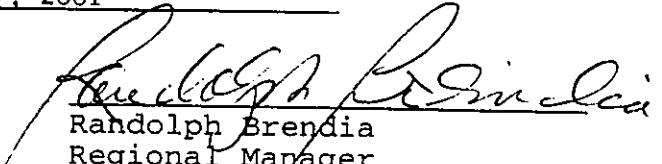
ORDER STAYING EFFECTIVE DATE

On January 4, 2001, a Decision was rendered in the above-entitled matter to become effective January 31, 2001. On January 25, 2001, an ORDER STAYING EFFECTIVE DATE stayed the effective date of January 31, 2001, for 30 days, staying the effective date until March 2, 2001.

IT IS HEREBY ORDERED that the effective date of the Decision of January 4, 2001, is stayed for a period of 10 days.

1 The Decision of January 4, 2001, shall become
2 effective at 12 o'clock noon on March 12, 2001.

3
4 DATED February 27, 2001

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6 Randolph Brendia
7 Regional Manager
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DEPARTMENT OF REAL ESTATE

- 1 -

By Laura B. Price

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-28570 LA
DIANA LUO,) OAH No. L-2000060339
Respondent.)

DECISION AFTER REJECTION

The matter came on for hearing before John Thomas Montag, Administrative Law Judge, of the Office of Administrative Hearings, in Los Angeles, California, on July 27, 2000.

Elliott Mac Lennan, Counsel, represented the Complainant. Respondent was present and was represented by Frank Buda, Esq.

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

On August 23, 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 October 3, 2000, Respondent was notified that the
4 case would be decided by me upon the record, the transcript of
5 proceedings held on July 27, 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 the proceedings of
9 July 27, 2000, received on November 6, 2000. Written argument
10 was submitted by Respondent on or about November 22, 2000.

11 After further consideration of the matter, the
12 following shall constitute the Decision of the Real Estate
13 Commissioner in the above-entitled matter:

14 FINDINGS OF FACT

15 Finding of Fact 8 set forth in the Proposed Decision
16 dated February August 23, 2000, of the Administrative Law Judge
17 is not adopted. Respondent's conviction is recent, it hasn't
18 been expunged, and she is still on probation. Respondent cannot
19 be said to be rehabilitated.

20 All other findings are accepted and those other
21 findings are adopted as the Findings of Fact of the Real Estate
22 Commissioner in this proceeding.

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LEGAL CONCLUSIONS

Legal Conclusion 1 is hereby adopted as the Legal Conclusion of the Real Estate Commissioner.

Contrary to the opinion of the Administrative Law Judge regarding Legal Conclusion 2, I do not feel that the public interest would be adequately served or protected if Respondent were granted a real estate license because insufficient time has elapsed from the date of the conviction to determine if complete rehabilitation has been effected.

ORDER

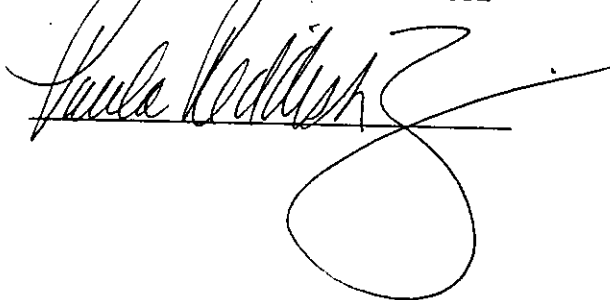
I

All licenses and license rights of Respondent DIANA LUO under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are revoked.

This Decision shall become effective at 12 o'clock noon on January 31, 2001

IT IS SO ORDERED January 4, 2001.

PAULA REDDISH ZINEMANN.
Real Estate Commissioner



*Sacto
Jae*

FILED
OCT 3 2000
DEPARTMENT OF REAL ESTATE

By *Laura B. Crowe*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-28570 LA
	)	
DIANA LUO,	)	L-2000060339
	)	
	)	
Respondent.	)	
	)	
	)	

NOTICE

TO: DIANA LUO, Respondent
and FRANK M . BUDA, her counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 23, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 23, 2000, is attached hereto 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 27,

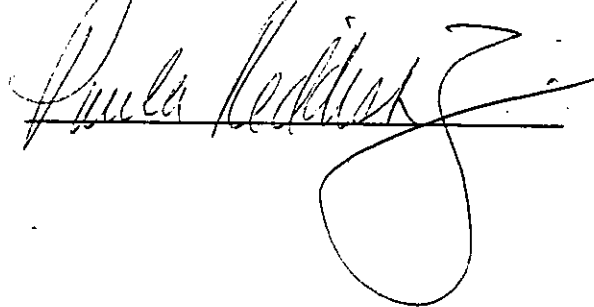
1 2000, and any written argument hereafter submitted on behalf of
2 respondent and complainant.

3 Written argument of respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of July 27, 2000, at the Los Angeles office of
6 the Department of Real Estate unless an extension of the time is
7 granted for good cause shown.

8 Written argument of complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 respondent at the Los Angeles Office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: September 27, 2000.

14
15 PAULA REDDISH ZINNEBANN
16 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

DIANA LUO,

Respondent.

CASE NO. H-28570 LA

OAH NO. L 2000060339

PROPOSED DECISION

John Thomas Montag, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on July 27, 2000.

Elliot Mac Lennan, Real Estate Counsel, represented the Department of Real Estate.

Frank M. Buda, Attorney at Law, represented respondent, Diana Luo, who was present throughout the hearing.

Evidence was received, the record was closed and the matter was submitted on July 27, 2000.

FACTUAL FINDINGS

1. Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, signed the Accusation herein on May 23, 2000, seeking to impose disciplinary action against the license and license rights of respondent, Diana Luo, under the Real Estate Law, on the grounds that said respondent had been convicted of a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate licensee, in violation of Section 10177(b) of the Business and Professions Code.

The Accusation was filed with the Department on May 23, 2000, and it was, thereafter, duly served on respondent. Respondent executed a Notice of Defense which was timely filed with the Department on June 8, 2000.

2. Respondent has been continually licensed as a real estate salesperson for seven (7) years. She was initially licensed by the Department on August 23, 1993. Her current Real Estate Salesperson's License Number 00790203 will expire on August 22, 2001.

3. Respondent has no record of prior disciplinary action against her by the Department of Real Estate.

4. On February 24, 1999, in the Municipal Court of California, County of San Bernardino, West Valley Division, in Case No. MWV049348, respondent was convicted, upon her plea of guilty, of the misdemeanor crime of Petty Theft (Shoplifting) in violation of Section 488 of the California Penal Code. She was sentenced to serve one (1) day in a San Bernardino County Jail Facility, with credit for time already served of one (1) day and to pay a total of \$290.00 in fines, penalties and collection fees. She was placed on summary probation to the Court for a period of two (2) years. Her summary probation will expire on February 24, 2001.

5. The offense of which respondent was convicted on February 24, 1999, is a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, pursuant to Section 2910 of Title 10, California Code of Regulations. Such a conviction constitutes cause for suspension or revocation of her license and license rights under the Real Estate Law, in accordance with the provisions of Sections 490 and 10177(b) of the Business and Professions Code.

6. The circumstances of respondent's criminal conviction are:

Respondent's uncle, who is a resident of Taipei, Taiwan, regularly visits the United States and travels throughout our country, with his wife, for extended periods of time. He and his wife always stay with respondent and her family, and use their residence as a home base from which to embark upon their travels in the United States. While respondent's uncle was visiting Chicago, Illinois, sometime before Christmas 1999, he purchased a pair of jeans as a Christmas present for respondent's young daughter. He did not know the correct size for the jeans but he purchased them from J. C. Penney, so that they could easily be exchanged for the proper size at a Penney store in California. He paid cash for the jeans.

The uncle gave the jeans to respondent's daughter on Christmas day 1999. As expected, the jeans did not fit. Respondent's daughter needed a larger size than the size purchased by the uncle. Accordingly, on December 26, 1999, respondent and her sister drove to the J. C. Penney store located in a shopping mall in Montclair, California, to exchange the jeans. (On this same day, her uncle and his wife returned to Taipei.) The day after Christmas is, traditionally, an extremely busy shopping day and so it was on December 26, 1999. Respondent's sister was driving and she could not find a parking place at the mall. Respondent exited the car, with the jeans, leaving her sister to circle the mall in search of a parking place.

Respondent's uncle had either misplaced, or failed to retain, the cash receipt for the jeans. As soon as respondent entered the store, she approached a salesperson, told her that she needed to exchange the jeans and also informed her that she did not have a receipt. The sales clerk told

respondent to leave the jeans with the sales clerk and to obtain the proper size and return with them to the sales clerk. Respondent left the jeans with the clerk, as instructed, and set out in search of the correct size for her daughter. She had to go to a different section of the store to do so. Once she had found the correct size, she attempted to find the salesperson with whom she had left the original pair of jeans. She was unable to find the clerk and thereupon left the store with the replacement jeans. She was stopped by security personnel. The police were called and respondent was issued a citation to appear in court on February 24, 1999, to answer the criminal charge of petty theft.

7. Respondent's testimony at the hearing was sincere and believable. She expressed sorrow concerning the incident and admitted that she was extremely embarrassed by it. She pleaded guilty to the offense at her first court appearance. She wanted to dispose of this embarrassing incident as quickly as possible. It is obvious that she did not realize that by pleading guilty to the petty theft, she was placing her real estate license in jeopardy.

Respondent's uncle submitted a statement (Exhibit A) which verifies that he purchased the jeans for respondent's daughter and that he was aware that the size was probably not correct.

Respondent's broker also submitted a letter attesting to her ethical and exemplary behavior as a real estate salesperson. He is aware of her present difficulty concerning her license. He would like to have her return to work for him when she is ready to resume her real estate activities. (Exhibit C.)

Respondent has not been active in real estate sales activity for several years because of her involvement in a family electronics business. She and her husband presently operate an electronics business which employs 250 people. She does want to retain her real estate license, however, because she enjoys and appreciates the opportunity to be involved in a real estate career. Exhibit B attests to her sincerity and honesty in assisting people in the purchase of a home, even if it does not generate a commission for her.

8. Respondent has no record of any prior disciplinary action against her. Except for the petty theft conviction which is the subject of this hearing, respondent has an unblemished record. It is clear that the instant offense represents an uncharacteristic departure from respondent's otherwise exemplary behavior. It is not likely that she will again become involved in any type of unlawful activity. Even though her conviction is recent, there is no doubt that she has no further need of rehabilitation to justify the granting of a restricted license. She does not pose any threat to the public if she is allowed to retain her real estate salesperson's license, in a restricted status.

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LEGAL CONCLUSIONS

1. Cause exists, pursuant to Sections 490 and 10177(b) of the Business and Professions Code to suspend or revoke respondent's real estate salesperson's license upon the ground that she has been convicted of a crime involving moral turpitude, which bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, by reason of Findings 2, 4, 5, and 6.

2. Although cause does exist to suspend or revoke respondent's license, in view of the matters set forth in Findings 3, 6, 7 and 8, this is an appropriate case in which to stay the disciplinary action and allow the respondent to have a restricted license, in accordance with certain specified terms, conditions and restrictions, as set forth hereinafter.

ORDER

1. All licenses and licensing rights of respondent, Diana Luo, under the Real Estate Law are revoked; provided, however, that a restricted real estate broker license shall be issued to respondent, pursuant to Section 10156.5 (a) 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:

a. 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 of, or plea of nolo contendere to, a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

b. 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 any provisions of the California Real Estate Law, the Subdivided Lands law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

c. 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 eighteen (18) months have elapsed from the effective date of this Decision.

d. 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

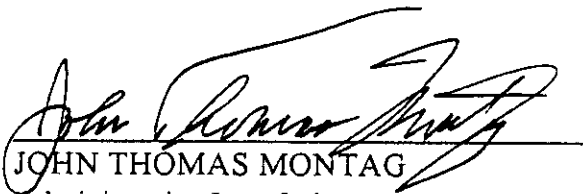
NOT REPORTED

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. Completion of these courses should satisfy any continuing education courses which would ordinarily be required from respondent in order for her to renew her license prior to its expiration date of August 22, 2001.

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

- (1) That the employing broker, or real estate mortgage loan company, has read the Decision of the Commissioner which granted the right to a restricted license; and
- (2) That the employing broker, or real estate mortgage loan company, will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

Dated: August 23, 2000


JOHN THOMAS MONTAG
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
JUN 29 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

DIANA LUO,

) Case No. H-28570 LA
) OAH No. L-2000060339

By

Sam P. Olen

Respondent(s).

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JULY 27, 2000, at the hour of 1:30 p.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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: June 29, 2000

DEPARTMENT OF REAL ESTATE

By:

Elliott MacLennan
ELLIOTT MAC LENNAN, Counsel

cc: Diana Luo
Sacto.
OAH

RE 501 (Rev. 8/97)

EM:lbo

1 Elliott Mac Lennan, Counsel 66674
2 Department of Real Estate
3 320 W. 4th Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6911

FILED
MAY 23 2000
DEPARTMENT OF REAL ESTATE

By Laura B. Oron

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H- 28570 LA
12 DIANA LUO,)
13)
14 Respondent.) A C C U S A T I O N
15)

16 The Complainant, Thomas McCrady, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 accusation against DIANA LUO, is informed and alleges in his
19 official capacity as follows:

20 1

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

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Respondent was originally licensed by the Department of Real Estate of the State California as a real estate salesperson on August 23, 1993, and has continuously thereafter been so licensed.

On February 24, 1999, in the San Bernardino Municipal Court of California, West Valley Division, County of San Bernardino, State of California, respondent was convicted upon a guilty plea to one count of violating Section 488 of the California Penal Code (petty theft), a misdemeanor crime that occurred on December 26, 1998, which by its facts and circumstances involves moral turpitude and is 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 licesnee.

The facts as alleged in Paragraph 3, above, constitute cause for the suspension or revocation of the license and license rights of respondent under Sections 490 and 10177(b) of the Code.

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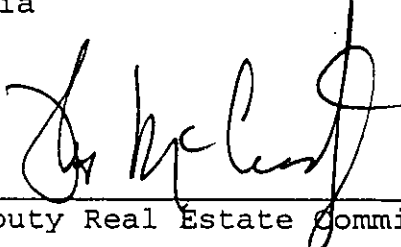
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that
3 upon proof thereof, a decision be rendered imposing
4 disciplinary action against the license and license rights
5 of respondent DIANA LUO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

9 Dated at Los Angeles, California

10 This 23rd day of May, 2000.

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12 _____
13 Deputy Real Estate Commissioner

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24 cc: Diana Luo
25 Sacto
26 PI
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