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DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-28919 LA
LESLIE BRADSHAW THOMAS)	L-2001010295
and GORDON EDWARD MOLDT,)	
)	
)	
Respondents.)	
_____)	

DECISION

The Proposed Decision dated April 2, 2001, 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.

This Decision shall become effective at 12 o'clock noon on May 9, 2001

IT IS SO ORDERED April 17, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LESLIE BRADSHAW THOMAS and
GORDON EDWARD MOLDT,

Respondents.

OAH NO. L-2001010295

CASE NO. H-28919 LA

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, at Santa Ana, California on March 13, 2001. Department of Real Estate Counsel, Mary E. Work, represented complainant. Respondents, Leslie Thomas and Gordon Moldt, received proper, timely, notice of the date, time, and place of the instant hearing and failed to appear; respondents were not represented at the hearing.

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

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. The Accusation and First Amended Accusation were filed by Thomas McCrady, in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California ("the Department").

2. Respondents were duly served with copies of the Accusation and the First Amended Accusation, along with all statutorily required documents. On January 10, 2001, respondents filed notices of defense and the instant matter was set for hearing. Originally, this matter was scheduled to be heard on March 13, 2001 at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California.

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On January 30, 2001, both respondents filed an "Objection to Place of Hearing". In their objection respondents' state:

"Respondents Leslie Bradshaw Thomas and Gordon Edward Moldt object to the place of hearing in Notice of Hearing on Accusation filed on January 22, 2001, currently set for Los Angeles, California on Tuesday, March 13, 2001. Respondents respectfully request a change in the place of the hearing on accusation to central Orange County."

Based on respondents' request for a venue change, complainant filed an amended "Notice of Hearing on Accusation" setting the instant hearing on March 13, 2001, at 10:00 a.m. in Santa Ana. The amended notice of hearing was served on respondents at their addresses of record, the same addresses at which the previous documents had been served. Nevertheless, respondents failed to appear at the hearing.

3. On May 14, 1993, the Department issued respondent Leslie Bradshaw Thomas, a real estate broker's license. At all relevant times, that license was, and currently is, in full force and effect.

4. On October 21, 1995, the Department issued respondent Gordon Edward Moldt, a real estate salesperson's license. At all relevant times, that license was, and currently is, in full force and effect.

5. On May 10, 2000, in the Superior Court of the State of California, County of Orange, in Case number 789647, a final judgment was entered against respondents finding them jointly and severally liable for damages in the amount of \$19,700.00 in principal, costs of \$823.00 and interest awarded from the time of default at the legal rate. The judgment against respondents was based on elder abuse, breach of fiduciary duty, and fraud concerning transactions for which a real estate license is required.

6. On January 10, 2001, the Real Estate Commissioner issued a decision "granting recovery account application". The decision was based on the civil judgment referred to in paragraph 5, above. In the decision the Real Estate Commissioner makes certain factual findings, and directs payments in the amount of \$13,441.78 from the Real Estate Recovery Account to William Baker, Orange County Public Guardian, as conservator of the Estate of George Neff, Jr. (the "victim").

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The ALJ in the present action adopts the factual findings of the Real Estate Commissioner in her Decision (Exhibit "5") as the factual basis for the instant disciplinary action. Those findings are as follows:

The conservator of the victim's Estate filed suit against respondents on January 28, 1998 in the Superior Court, County of Orange, Case number 789647. The conservator alleged fraud, elder abuse, negligence and breach of fiduciary duty on the part of respondents. On July 13, 1999, respondents entered into a Stipulation for Entry of Judgment, awarding the conservator \$13,250.00. The stipulation provided for five equal payments of \$2,650.00. If default occurred, the conservator was entitled to enter judgment in the amount of \$25,000.00. On May 10, 2000, judgment was entered in the Orange County Superior Court awarding the conservator the sum of \$21,063.00 based upon elder abuse, breach of fiduciary duty and fraud. Said judgment is now final.

In 1957 the victim acquired property located at 215 North Cambridge Street, Orange, California. The victim, who is 92 years old, resided in the property continuously until February 1996, when he was moved to a licensed care facility under the care of William Baker, the conservator of his estate. Beginning in June 1993, a series of loans secured by the property were arranged on behalf of the victim by various real estate brokers. The total loans placed against the property that was "free and clear" of encumbrances was \$216,226.00. Of this amount, the victim received no more than \$46,885.00 or 21.7% and paid \$53,493.12 or 25% in commissions, fees, and penalties. Eventually, the property was lost in February 1996 through foreclosure when the total monthly obligation exceeded the victim's monthly income of \$826.00 from Social Security.

In March 1996, William Baker was appointed conservator of the victim's estate. On behalf of the victim, Baker filed suit against the real estate brokers who had arranged the loans. Declarations from psychiatrists, police, neighbors, and public guardians were presented to the court as to the victim's cognitive deficits and impairments in his ability to comprehend or think logically at the time of the transactions. It was determined that during 1993, at the latest, the victim was unable to comprehend and exercise reasonable judgments and self-protection in regards to financial transactions. According to the testimony, in this state, the victim was substantially susceptible to the undue influence of others in regards to being taken advantage of in financial business transactions, including the subject loans.

In July 1994, respondent Moldt and Glenda St. Glenn of Sunflower Home Loans contacted the victim for the purpose of borrowing \$26,000.00 ("Sunflower loan") secured by a second deed of trust against his property. Sunflower Home Loans was a registered fictitious business name of respondent Thomas. Respondent Moldt and St. Glenn were salespersons employed by respondent Thomas.

The property was encumbered by a first deed of trust in the amount of \$74,603.00 arranged in February 1994 by First Alliance Mortgage, and a second deed of trust in the amount of \$11,000.00 arranged by Vista in June 1994. The professed purpose of the Sunflower loan was to pay for repairs to the property, cure defaults on the existing loans, and provide the victim with cash. At the time of the solicitation, the loans were not delinquent, but became so in the course of the four months it took to fund the Sunflower loan. Evidence revealed that respondent Moldt gained the trust and confidence of the victim by representing to the victim that he reminded respondent Moldt of his father. Part of the victim's diminished understanding was his belief that he was a Reader's Digest Sweepstakes winner due to the numerous solicitations he had received in the mail. The victim informed respondent Moldt that he had won \$600.00 per month by way of the sweepstakes. On the loan application, respondent Moldt described these illusory winnings as income earned by the victim as a marketing consultant.

The terms of the Sunflower loan included paying off the existing \$11,000.00 Vista loan secured by the second deed of trust, interest at the rate of 15% with interest-only payments in the amount of \$325.00 for three years and costs and commissions in the amount of \$5,561.74 or 21.78% of the loan amount. The loan agreement also provided that respondent Thomas would hold \$6,000.00 in trust to pay for repairs needed to the house. Of the \$6,000.00, respondent Thomas kept \$500.00 as a "fund control fee". The victim was also charged approximately \$1,500.00 in pre-payment penalties for the Vista loan. Escrow closed on November 1, 1994. The Sunflower loan represented the sixth loan arranged against the property in a little more than one year. No portion of the loan proceeds went to the victim. At the close of escrow, the victim was responsible for \$769.89 in monthly payments on an income of \$826.00. Complaints of nonpayment by a repairman led to the investigation of this matter by the City of Orange Police Department, which led to the appointment of William Baker as conservator.

Less than two months after escrow closed, respondent Thomas introduced the victim to Joseph Prodan of Golden Pacific Funding for the ostensible purpose of paying off the Sunflower loan, curing the default on the first deed of trust, and providing the victim with cash to meet his additional loan payments and living expenses. After the close of escrow of the Golden Pacific loan, the victim was responsible for \$1,051.43 in loan payments on a fixed income of \$826.00 per month. The property was eventually lost in 1996 when the holders of the second deed of trust foreclosed.

The conservator has established through documentation that the victim's actual and direct loss based on respondents' actions are as follows: \$5,561.74 in commissions paid; \$671.50 in pre-payment penalties; and \$6,000.00 for "repairs" (an accounting of said funds was never provided.) For purposes of the

Recovery Account, the Commissioner found that the victim suffered actual and direct loss of \$12,179.24 plus \$23.00 in court costs, and pre-judgment and post-judgment interest. Accordingly, the Commissioner found that the Real Estate Recovery Account should pay the victim's estate \$13,441.78.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. Based on Findings 5, and 6, cause exists for discipline of respondent's license pursuant to Business and Professions Code section 10177.5. (See *California Real Estate Loans, Inc. v. Wallace* (1993) 18 Cal.App.4th 1575.)

2. The respondents are jointly and severally responsible for reimbursing the Real Estate Recovery account the amount of \$13, 441.78. They are further responsible for paying any other valid civil judgment that resulted from the acts set forth herein.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The real estate broker license issued to respondent Leslie Bradshaw Thomas, and all rights appurtenant thereto, is revoked.

The real estate salesperson's license issued to respondent Gordon Edward Moldt, and all rights appurtenant thereto, is revoked.

IT IS FURTHER ORDERED that: Respondents shall reimburse the Department of Real Estate the amount of \$13,441.78 as reimbursement to the Real Estate Recovery account. Additionally, respondents shall pay all valid civil judgments that resulted from the acts set forth herein.

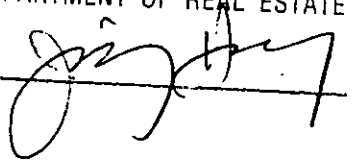
Dated: April 2, 2001.


ROY W. HEWITT

Administrative Law Judge
Office of Administrative Hearings

SAC 10

1 MARY E. WORK, Counsel
2 State Bar No.: 175887
3 Department of Real Estate
4 320 W. 4th Street, Suite 350
5 Los Angeles, CA 90013-1105
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8 Telephone: (213) 576-6982
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FILED
FEB 13 2001
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against LESLIE BRADSHAW THOMAS and GORDON EDWARD MOLDT alleges and amends as follows:

I

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

II

At all times mentioned herein, LESLIE BRADSHAW THOMAS ("Respondent") was and still is licensed by the Department of Real Estate of the State of California ("Department") as real estate broker. At all times mentioned herein, GORDON EDWARD

1 MOLDT ("Respondent") was and still is licensed by the Department
2 as a real estate salesperson.

3 III

4 On or about May 10, 2000, in the Superior Court of the
5 State of California, County of Orange, in Case No. 789647, a
6 final judgment was entered against Respondents individually [sic]
7 and severally amounting to some \$19,700.00 in principal, costs of
8 \$823.00 and, interest awarded from the time of default at the
9 legal rate, based on grounds of fraud, misrepresentation, or
10 deceit with reference to a transaction for which a real estate
11 license is required.

12 IV

13 The facts set forth above in Paragraph III constitute
14 cause under Section 10177.5 of the Business and Professions Code
15 for suspension or revocation of all licenses and license rights
16 of Respondents under the Real Estate Law.

17 IN AGGRAVATION

18 V

19 On or about January 10, 2001, a Decision of the Real
20 Estate Commissioner (Granting Recovery Account Application) was
21 issued. The Decision directs payment in the amount of \$13,441.78
22 from the Real Estate Recovery Account to William Baker, Orange
23 County Public Guardian, as conservator of the Estate of George
24 Neff, Jr. The decision was based on the civil judgment referred
25 to above in Paragraph III.

26 WHEREFORE, Complainant prays that a hearing be
27 conducted on the allegations of this Accusation and that upon
proof thereof, a decision be rendered imposing disciplinary

1 action against all licenses and/or license rights of LESLIE
2 BRADSHAW THOMAS and GORDON EDWARD MOLDT under the Real Estate Law
3 and for such other and further relief as may be proper under
4 applicable provisions of law.

5 Dated at Los Angeles, California
6 this 13th day of February, 2001.

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10 Deputy Real Estate Commissioner

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16 cc: Leslie Bradshaw Thomas
17 Gordon Edward Moldt
18 Thomas McCrady
19 ✓ SACTO
RJ
The FHL Financial Group

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SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
LESLIE BRADSHAW THOMAS)
and GORDON EDWARD MOLDT,)
_____)
Respondent (s)

Case No. H-28919 LA
OAH No. L-2001010295

FILED
FEB 7 2001

DEPARTMENT OF REAL ESTATE

By 

AMENDED 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 Board of Equalization, 28 Civic Center Plaza, 2nd Floor, Room 239, Santa Ana, CA 92701 on TUESDAY, MARCH 13, 2001, at the hour of 10:00 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.

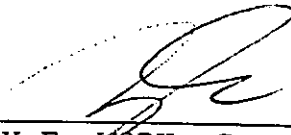
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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.

DEPARTMENT OF REAL ESTATE

Dated: February 7, 2001

By 

MARY E. WORK, Counsel

cc: Leslie Bradshaw Thomas
Gordon Edward Moldt
The FHL Financial Group
Sacto.
OAH

SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
LESLIE BRADSHAW THOMAS)
and GORDON EDWARD MOLDT,)
)
)

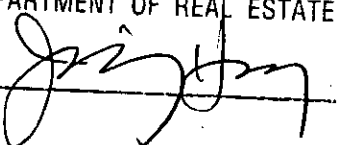
Case No. **H-28919 LA**
OAH No. **L-2001010295**

Respondents.

FILED
JAN 22 2001

DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By 

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, Suite 630, Los Angeles, CA 90013-1105 on **TUESDAY, MARCH 13, 2001**, 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.

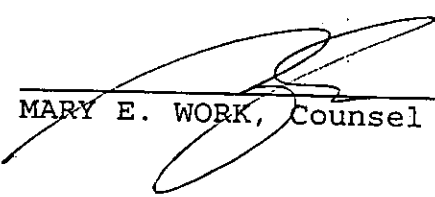
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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.

DEPARTMENT OF REAL ESTATE

Dated: **January 22, 2001**

By 
MARY E. WORK, Counsel

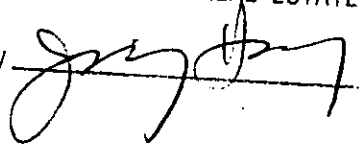
cc: Leslie Bradshaw Thomas
Gordon Edward Moldt
The FHL Financial Group
✓ Sacto.
OAH

SACTO

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MARY E. WORK, Counsel
State Bar No: 175887
Department of Real Estate
320 W. 4th Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
Direct - (213) 576-6916

FILED
JAN - 3 2001
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-28919 LA
)
LESLIE BRADSHAW THOMAS)
and GORDON EDWARD MOLDT,) **A C C U S A T I O N**
)
Respondents.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LESLIE BRADSHAW THOMAS and GORDON EDWARD MOLDT 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

At all times mentioned herein, LESLIE BRADSHAW THOMAS ("Respondent") was and still is licensed by the Department of Real Estate of the State of California ("Department") as real estate broker. GORDON EDWARD MOLDT ("Respondent") was and still

1 is licensed by the Department as a real estate salesperson.

2 III

3 On or about May 10, 2000, in the Superior Court of the
4 State of California, County of Orange, in Case No. 789647, a
5 final judgment was entered against Respondents individually [sic]
6 and severally amounting to some \$19,700.00 in principal, costs of
7 \$823.00 and, interest awarded from the time of default at the
8 legal rate, based on grounds of fraud, misrepresentation, or
9 deceit with reference to a transaction for which a real estate
10 license is required.

11 IV

12 The facts set forth in Paragraph III constitute cause
13 under Section 10177.5 of the Business and Professions Code for
14 suspension or revocation of all licenses and license rights of
15 Respondents 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/or license rights of LESLIE BRADSHAW THOMAS and GORDON EDWARD MOLDT under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California
this 3rd day of January, 2001.



Deputy Real Estate Commissioner

cc: Leslie Bradshaw Thomas
Gordon Edward Moldt
The FHL Financial Group
Thomas McCrady
✓ SACTO
RJ