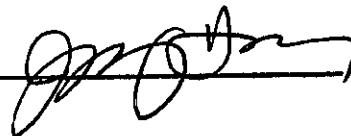


1 Department of Real Estate  
2 320 W. 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**  
AUG 24 2005

DEPARTMENT OF REAL ESTATE

By 

7 **DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9  
10 *In the Matter of the Application of*

11 MICHELLE LEE THORPE,

12  
13  
14 Respondent

) No. H- 31701 LA

) L-2005030703

) **STIPULATION AND**  
) **WAIVER**

15 It is hereby stipulated by and between MICHELLE LEE THORPE (hereinafter "Respondent") and  
16 Respondent's attorney, Frank M. Buda, and the Complainant, acting by and through Alvaro Mejia, Counsel  
17 for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of  
18 Issues filed on February 23, 2005 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and the  
20 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's  
21 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner  
22 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's  
23 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the  
24 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and  
25 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate  
26 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets  
27 all the requirements for issuance of a real estate salesperson license. Respondent further understands that by

1 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner  
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance  
3 to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are  
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real  
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and  
7 Professions Code. Respondent understands that any such restricted license will be issued subject to and be  
8 limited by Section 10153.4 of the Business and Professions Code.

9 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's  
10 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's  
11 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver  
12 is accepted by the Real Estate Commissioner. However, Respondent is not waiving Respondent's right to a  
13 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and  
14 Waiver is not accepted by the Commissioner.

15 Respondent further understands that the following conditions, limitations, and restrictions will attach  
16 to a restricted license issued by the Department of Real Estate pursuant hereto:

- 17 1. The license shall not confer any property right in the privileges to be exercised including the  
18 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right  
19 to exercise any privileges granted under this restricted license in the event of:
  - 20 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears  
21 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or
  - 22 b. The receipt of evidence that Respondent has violated provisions of the California Real  
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or  
24 conditions attaching to this restricted license.
- 25 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license  
26 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted  
27

1 license until two years have elapsed from the date of issuance of the restricted license to  
2 Respondent.

- 3 3. With the application for license, or with the application for transfer to a new employing broker,  
4 Respondent shall submit a statement signed by the prospective employing broker on a form  
5 approved by the Department of Real Estate wherein the employing broker shall certify as  
6 follows:

- 7 a. That broker has read the Statement of Issues which is the basis for the issuance of the  
8 restricted license; and  
9 b. That broker will carefully review all transaction documents prepared by the restricted  
10 licensee and otherwise exercise close supervision over the licensee's performance of acts  
11 for which a license is required.

- 12 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of  
13 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within  
14 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to  
15 the Commissioner of successful completion, at an accredited institution, of  
16 a course in real estate practices and one of the courses listed in Section 10153.2, other than real  
17 estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced  
18 real estate appraisal. If Respondent fails to timely present to the Department satisfactory  
19 evidence of successful completion of the two required courses, the restricted license shall be  
20 automatically suspended effective eighteen (18) months after the date of its issuance. Said  
21 suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent  
22 has submitted the required evidence of course completion and the Commissioner has given  
23 written notice to Respondent of the lifting of the suspension.

- 24 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified  
25 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,  
26 and shall not be entitled to the issuance of another license which is subject to Section 10153.4  
27 until four years after the date of the issuance of the preceding restricted license.

8/12/05

Dated

ALVARO MESA, Counsel, Department of Real Estate

\*\*\*

I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of her actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Waiver.

8/11/05

Dated

MICHELLE LEE THORPE, Respondent

I have reviewed the Stipulation and Waiver as to form and content and have advised my client accordingly.

8-11-05

Dated

FRANK M. BUDA, Attorney for Respondent

\*\*\*

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED

8-17-05

  
\_\_\_\_\_  
Jeff Davis  
Real Estate Commissioner

1 DARLENE AVERETTA, Counsel (SBN 159969)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6904



By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of )

NO. H- 31701 LA

MICHELLE LEE THORPE, )

STATEMENT OF ISSUES

Respondent. )

The Complainant, Marie Suarez, a Deputy Real Estate  
Commissioner of the State of California, for cause of Statement  
of Issues against ("Respondent"), is informed and alleges as  
follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, makes this Statement  
of Issues against Respondent in her official capacity.

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2.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about April 1, 2004, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code ("Code") Section 10153.4.

3.

(CRIMINAL CONVICTIONS)

On or around, January 4, 1993, in the Municipal Court, County of Orange, State of California, Respondent, MICHELLE LEE THORPE, was convicted of violating California Penal Code Section 459 (Burglary), and convicted of violating California Penal Code Section 470 (Forgery). These are crimes involving moral turpitude which bear a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

On or around, July 22, 1997, in the Superior Court of California, County of Orange, in Case No. 97NM06707, Respondent, MICHELLE LEE THORPE, was convicted of violating California Penal Code Section 148 (Resist Arrest). The underlying facts of this crime involve moral turpitude which bears a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

5.

On or around, September 24, 2002, in the Superior Court of California, County of San Bernardino, Needles District, in Case No. MNE010652, Respondent, MICHELLE LEE THORPE, was convicted of violating California Harbors and Navigation Code Section 655(c) (Operating Watercraft Vessel With .08% or More Blood Alcohol Content). The underlying facts of this crime may bear a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

6.

The crime of which Respondent was convicted, as alleged herein above in Paragraphs 3, 4, and 5, constitutes cause for denial of Respondent's application for a real estate license under Code Sections 475(a)(2), 480(a)(1) and/or 10177(b).

7.

(FAILURE TO REVEAL CONVICTION)

In response to Question 25 of her license application, to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTION EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent answered "Yes", but failed to reveal the convictions described in Paragraphs 3 and 4 above.

///



1 Respondent's failure to reveal the convictions set  
2 forth herein in Paragraphs 3 and 4, above, in her license  
3 application, constitutes, knowingly making a false statement of  
4 material fact required to be revealed in said application, which  
5 is grounds for denial of the issuance of a license under  
6 Business and Professions Code Sections 480(c) and 10177(a).

7 The Statement of Issues is brought under the  
8 provisions of Section 10100, Division 4 of the Business and  
9 Professions Code of the State of California and Sections 11500  
10 and 11529 of the Government Code.

11 WHEREFORE, Complainant prays that the above entitled  
12 matter be set for hearing and, upon proof of the charges  
13 contained herein, that the Commissioner refuse to authorize the  
14 issuance of, and deny the issuance of, a real estate salesperson  
15 license to Respondent, MICHELLE LEE THORPE, and for such other  
16 and further relief as may be proper under other provisions of  
17 law.  
18

19 Dated at Los Angeles, California

20 this 16th day of February, 2005.

21   
22 Maria Suarez

23 Deputy Real Estate Commissioner

24 Cc: MICHELLE LEE THORPE  
25 Maria Suarez  
26 Sacto.  
27 JL