



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

**In the Matter of the Application of:**

**CHANTE LEMON EARL**

**Respondent.**

**No. H-32628 LA**

**OAH No. L2006050505**

**PROPOSED DECISION**

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on July 20, 2006, in Los Angeles, California. Complainant was represented by Alvaro Mejia, Staff Counsel for the Department of Real Estate. Chante Lemon Earl (Respondent) appeared and represented himself.

At the hearing, the Statement of Issues was amended as follows:

(1) A new paragraph 5 was inserted, which stated:

On or about March 10, 1997, in the United States District Court, Southern District of California, in case no. 95-1839-B, Respondent was convicted of violating six (6) counts of Title 18, United States Code, Sections 1343 and 2 (Aiding and Abetting Wire Fraud). The underlying facts of these crimes involve moral turpitude and are substantially related under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

(2) Former paragraph 5 was renumbered as paragraph 6.

(3) New paragraph 6, line 10 was amended to read "paragraphs 3, 4 and 5."

Oral and documentary evidence was received and argument was heard. The record was closed and the matter was submitted for decision on July 20, 2006.

**FACTUAL FINDINGS**

1. On March 28, 2006, Complainant Maria Suarez filed the Statement of Issues while acting in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate (Department), State of California.

2. On May 24, 2005, Respondent submitted to the Department an application for a real estate salesperson license, with the knowledge and understanding that any license issued as a result of that application would be subject to the conditions of Business and Professions Code section 10153.4. The Department denied the application, and Respondent requested a hearing.

### *Respondent's Convictions*

3a. On March 10, 1997, in the United State District Court, Southern District of California, Case Number 95 1839-B, Respondent was convicted, after a jury trial, of six counts of violating Title 18, United States Code, Sections 1343 (wire fraud) and 2 (aiding and abetting), crimes involving moral turpitude which are substantially related to the qualifications, functions and duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(4) and (a)(8).<sup>1</sup>

3b. Respondent was sentenced to 30 months in federal prison and was ordered to surrender for service of his sentence on April 28, 1997. The Court further ordered that, upon release from prison, Respondent be placed on supervised release for three years.

3c. The facts and circumstances surrounding Respondent's March 10, 1997 conviction are as follows: From June 20, 1991 through March 4, 1993, Respondent was employed by Can Do Worldwide Marketing (CWM), a company that had developed a scheme to defraud victims between 55 and 80 years old. On April 16, 29 and 30, June 18, October 14, November 6, and December 15, 1992, and February 23, 1993, Respondent, using the name "Thomas Smith," engaged in interstate telephone conversations with several victims, inducing the sale of cosmetics and other products by misleading the victims regarding their likelihood to win a prize in CWM's cash sweepstakes.

4a. On March 31, 1997, in the United State District Court, Southern District of California, Case Number 95 2076-T, Respondent was convicted, on his plea of guilty, of violating Title 18, United States Code, Sections 371 (conspiracy to commit wire fraud), 1343 (wire fraud) and 2 (aiding and abetting), crimes involving moral turpitude which are substantially related to the qualifications, functions and duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(4) and (a)(8).<sup>2</sup>

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<sup>1</sup> The crimes of wire fraud and aiding and abetting wire fraud are crimes of moral turpitude because they evidence a "general readiness to do evil." (*People v. Castro* (1985) 38 Cal.3d 301, 315.)

<sup>2</sup> The crime of conspiracy to commit fraud is a crime of moral turpitude because it evidences a "general readiness to do evil." (*People v. Castro* (1985) 38 Cal.3d 301, 315.)

4b. Respondent was sentenced to 12 months in federal prison, to run concurrently with the sentence imposed in Case Number 95-CR-1839-B. The Court ordered that, upon release from prison, Respondent be placed on supervised release for three years, to run concurrently with the supervised release imposed in Case Number 95-CR-1839-B.

4c. The facts and circumstances surrounding Respondent's March 31, 1997 conviction are as follows: From April 13, 1993, through June 15, 1993, Respondent engaged in a conspiracy to defraud through his employment at Pilgrim Industries, Inc. (Pilgrim), a company which acquired the CWM operation. As part of the scheme to defraud, Respondent knowingly made material misrepresentations over the telephone in order to induce victims to make purchases.

5a. On April 3, 1997, in the Ninth Judicial District Court for the State of New Mexico, County of Curry, Case Number CR-96-12609, Respondent was convicted of violating New Mexico Statutes Annotated (1978), Sections 30-28-2 and 30-16-6 (conspiracy to commit fraud in excess of \$250), a felony involving moral turpitude which is substantially related to the qualifications, functions and duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(4) and (a)(8).

5b. Respondent was sentenced to 18 months imprisonment. However, his sentence was suspended, on the condition that he successfully complete 18 months of supervised probation. Respondent's probation was scheduled to commence immediately upon his actual notice to the Ninth Judicial District Adult Probation Department of his release from federal prison after completion of his 30-month, related sentence in Case Number 95-1839-B. The Court ordered Respondent's probation to run concurrently with any federal probation and/or parole for his related federal convictions. The Court further ordered Respondent to pay \$3781 in restitution.

5c. The facts and circumstances surrounding Respondent's April 3, 1997 conviction are as follows: Between July 1, 1991, and March 4, 1993, while employed as a salesperson for CWM, Respondent, engaged in a conspiracy wherein he made false and misleading representations over the telephone to induce victims to make purchases. (See Factual Finding 3c.) In connection with the conspiracy, Respondent personally contacted a victim in New Mexico.

#### *Respondent's Personal Information / Rehabilitation*

6a. Respondent began working for CWM in 1991, at age 20, after answering an employment advertisement. At that time, it appeared to him that CWM was "legitimate," since it had over 200 employees. About three months into his employment, he noticed that the company's practices were "not quite right," but convinced himself that "it must be legal" because CWM had "thousands of employees" and "everyone else was doing it." Although, he knew that it was "wrong," he chose to continue his employment, because it was "the best job" he could find and it paid him \$2000 per month. He admits now that it was a "bad choice" to remain.

6b. After 18 months of employment and promotion within CWM, Respondent confirmed that "it was a scam." Respondent's job entailed reading a script during his telephone conversations, and he was instructed not to let the victim hang up without making a purchase. He discovered that the script he was required to read was "fraudulent," and that the employees had to make misrepresentations to close the deal.

6c. Respondent quit his employment with CWM in 1993. That same year, CWM "closed down" after another company "took over." In his 18 months of employment, Respondent made about \$40,000.

7. In 1994, Respondent began selling cars. However, in 1996 he was indicted, just two weeks after getting married. After his conviction, he was sent to a federal "boot camp" and then to a halfway house to serve his term. The boot camp "changed his life and shaped who [he is] as a person," teaching him self-discipline and the need to be responsible for his actions.

8. Since his conviction, Respondent has become more responsible. He has been married for over 11 years and has five children. He has consistently maintained employment since his release from prison.

9. Respondent is 37 years old, 13 years older than the time of his crimes and 10 years older than the time of his convictions.

10. Respondent was released from federal custody in 2000. He served probation for three years after his release.

### LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for a real estate salesperson license, pursuant to Business and Professions Code sections 475, subdivision (a)(2), and 480, subdivision (a)(1), and California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(4) and (a)(8), for his criminal convictions, which are substantially related to the duties, qualifications, and functions of a real estate licensee, as set forth in Factual Findings 3, 4 and 5.

2. Cause exists to deny Respondent's application for a real estate salesperson license, pursuant to Business and Professions Code section 10177, subdivision (b), for his convictions of a crimes which involved moral turpitude, as set forth in Factual Findings 3, 4 and 5.

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3. Respondent has complied with some of the Department's applicable rehabilitation criteria set forth in California Code of Regulations, title 10, section 2911, as follows:

- (1) More than two years have lapsed since his last conviction.  
(Subdivision (a).);
- (2) Respondent has successfully completed his probation in all criminal cases.  
(Subdivision (e).);
- (3) Respondent has a stable family life.  
(Subdivision (h).);
- (4) Respondent has a change in attitude from that which existed at the time of the conduct in question.  
(Subdivision (n).).

4. Respondent's crimes, all stemming from his employment with CWM, appear to be a result of very poor judgment in his youth. Over a decade has lapsed since his crimes, and Respondent has maintained continuous employment to support his family since his release from prison. He has a changed attitude and has been a law-abiding citizen outside the mandates of the criminal justice system for at least three years. Notwithstanding Legal Conclusions Numbers 1, 2 and 3 above, Respondent has demonstrated sufficient rehabilitation following his convictions, such that the public should be adequately protected by the issuance of a restricted real estate salesperson's license to Respondent.

### ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to the 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 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 two (2) years have 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:

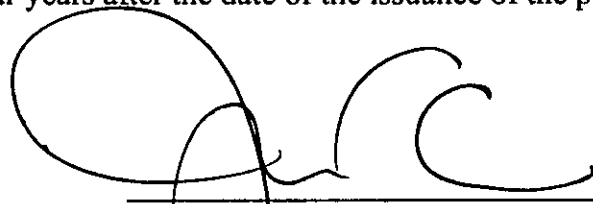
(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(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 Section 10153.4 of the Business and Professions Code, 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 a course in real estate practices and one of the 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: August 9, 2006



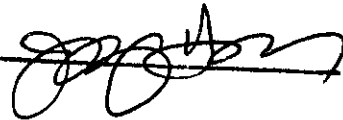
JULIE CABOS-OWEN  
Administrative Law Judge  
Office of Administrative Hearings

7/06

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**FILED**  
MAR 29 2008  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Application of	)	NO. H-32628 LA
	)	
CHANTE LEMON EARL,	)	
	)	<u>STATEMENT OF ISSUES</u>
	)	
Respondent.	)	
	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against CHANTE LEMON EARL, aka Thomas Smith, ("Respondent"), is informed and alleges as follows:

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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  
3 Estate of the State of California for a real estate salesperson  
4 license on or about May 24, 2005, with the knowledge and  
5 understanding that any license issued as a result of said  
6 application would be subject to the conditions of Business and  
7 Professions Code ("Code") Section 10153.4.

8 3.

9 (CRIMINAL CONVICTIONS)

10 On or about March 31, 1997, in the United States  
11 District Court, Southern District of California, in case no.  
12 95CR02076-6, Respondent was convicted of violating Title 18,  
13 United States Code, Section 371 (Conspiracy to Commit Wire  
14 Fraud), and violating Title 18, United States Code, Section 1343  
15 (Wire Fraud), and violating Title 18, United States Code,  
16 Section 2 (Aiding and Abetting). The underlying facts of these  
17 crimes involve moral turpitude and are substantially related  
18 under Title 10, Chapter 6, Section 2910, California Code of  
19 Regulations, to the qualifications, functions or duties of a  
20 real estate licensee.  
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2 On or about April 3, 1997, in the Ninth Judicial  
3 District Court, County of Curry, State of New Mexico, in case  
4 no. CR-96-12609, Respondent was convicted of violating New  
5 Mexico Statutes Annotated (1978), Section 30-28-2 and 30-16-6  
6 (Conspiracy to Commit Fraud in Excess of \$250), a fourth degree  
7 felony.

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9 5.

10 The crimes of which Respondent was convicted, as  
11 alleged herein above in Paragraphs 3 and 4, constitute cause for  
12 denial of Respondent's application for a real estate license  
13 under Business and Professions Code Sections 475(a)(2);  
14 480(a)(1); and/or 10177(b).

15 The Statement of Issues is brought under the  
16 provisions of Section 10100, Division 4 of the Business and  
17 Professions Code of the State of California and Sections 11500  
18 and 11529 of the Government Code.

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1 WHEREFORE, Complainant prays that the above entitled  
2 matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent, CHANTE LEMON EARL, and for such other and  
6 further relief as may be proper under other provisions of law.

7 Dated at Los Angeles, California

8 this 28<sup>th</sup> day of March, 2006.

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12 Maria Suarez  
13 Deputy Real Estate Commissioner  
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25 Cc: CHANTE LEMON EARL  
26 Consumer Direct Lending  
27 Maria Suarez  
Sacto.  
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