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FEB 11 2012

DEPARTMENT OF REAL ESTATE

By L. Jones

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	
	)	No. H-2549 FR
ERMA GRAHAM,	)	
	)	
Respondent.	)	
	)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE  
(Continuing Education)

TO: ERMA GRAHAM ("Respondent"):

On May 16, 2011, a restricted real estate salesperson license was issued by the Department of Real Estate ("Department") to Respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's ("Commissioner") Decision effective February 28, 2011, in Case No. H-2549 FR. This Decision granted the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code ("Code") of the State of California, and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those terms, conditions and restrictions, the Decision required Respondent, within nine

1 (9) months after February 28, 2011, the effective date of the Decision, to present evidence  
2 satisfactory to the Commissioner that Respondent has, since the most recent issuance of an  
3 original or renewal real estate license, taken and successfully completed the continuing education  
4 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate  
5 license, and provided that if Respondent failed to satisfy this condition, the Commissioner may  
6 order suspension of the restricted license until Respondent satisfies this condition.

7 As of December 28, 2011, Respondent has failed to submit proof satisfactory to  
8 the Commissioner of satisfying this condition. The Commissioner has determined the  
9 Respondent has failed to satisfy this condition, and as such, that Respondent is in violation of  
10 Section 10177(k) of the Code.

11 NOW, THEREFORE, IT IS ORDERED under authority of Section 10156.7 of the  
12 Code of the State of California that the restricted real estate salesperson license heretofore issued  
13 to Respondent and the exercise of any privileges thereunder is hereby suspended until such time  
14 as Respondent provides proof satisfactory to the Commissioner that Respondent has satisfied the  
15 condition, described above, or pending final determination made after hearing (see "Hearing  
16 Rights" set forth below).

17 IT IS FURTHER ORDERED that all license certificates and identification cards  
18 issued by the Department which are in the possession of Respondent be immediately surrendered  
19 by personal delivery or by mailing in the enclosed self-addressed, stamped envelope to:

20 DEPARTMENT OF REAL ESTATE  
21 ATTN: Flag Section  
22 P. O. Box 187000  
Sacramento, CA 95818-7000

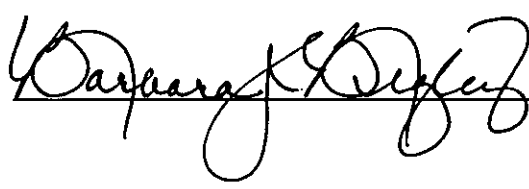
23 HEARING RIGHTS: You have the right to a hearing to contest the  
24 Commissioner's determination that you are in violation of Section 10177(k) of the Code. If you  
25 desire a hearing, you must submit a written request. The request may be in any form, as long as  
26 it is in writing and indicates that you want a hearing. Unless a written request for a hearing,  
27 signed by or on behalf of you, is delivered or mailed to the Department, Legal Section, at 2201

1 Broadway, P. O. Box 187007, Sacramento, California 95818-7007, within twenty (20) days after  
2 the date that this Order was mailed to or served on you, the Department will not be obligated or  
3 required to provide you with a hearing.

4 This Order shall be effective immediately.

5 DATED: 1/24/12

6 BARBARA J. BIGBY  
7 Acting Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE

*[Signature]*

1 Department of Real Estate  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-2549 FR

12 ERMA GRAHAM, )

STIPULATION AND  
AGREEMENT

13 Respondent. )

14 It is hereby stipulated by and between ERMA GRAHAM (hereinafter  
15 "Respondent"), and the Complainant, acting by and through Truly Sughrue, Counsel for the  
16 Department of Real Estate, as follows for the purpose of settling and disposing the Accusation  
17 filed on November 19, 2010 in this matter:

18 1. All issues which were to be contested and all evidence which was to be  
19 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
20 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),  
21 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
22 Stipulation and Agreement.

23 2. Respondent has received, read, and understands the Statement to  
24 Respondent, and the Discovery Provisions of the APA filed by the Department of Real Estate in  
25 this proceeding.

26 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the  
27 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent

1 acknowledges that she understands that by withdrawing said Notice of Defense she will thereby  
2 waive her right to require the Commissioner to prove the allegations in the Accusation at a  
3 contested hearing held in accordance with the provisions of the APA, and that she will waive  
4 other rights afforded to her in connection with the hearing such as the right to present evidence in  
5 defense of the allegations in the Accusation and the right to cross-examine witnesses.

6 4. Respondent, pursuant to the limitations set forth below, hereby admits that  
7 the factual allegations in the Accusation filed in this proceeding are true and correct and the Real  
8 Estate Commissioner shall not be required to provide further evidence to prove such allegations.

9 5. It is understood by the parties that the Real Estate Commissioner may  
10 adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty  
11 and sanctions on the real estate licenses and license rights of Respondent as set forth in the below  
12 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and  
13 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing  
14 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by

15 6. The Order or any subsequent Order of the Real Estate Commissioner made  
16 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any  
17 further administrative or civil proceedings by the Department of Real Estate (hereinafter  
18 "Department") with respect to any matters which were not specifically alleged to be causes for  
19 accusation in this proceeding.

20 \* \* \*

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations and waivers and solely for the purpose of  
23 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the  
24 following determination of issues shall be made:

25 I

26 The acts and omissions of Respondent as described in the Accusation are  
27 grounds for the suspension or revocation of Respondent licenses and license rights under  
Section 10177(d) of the Code in conjunction with Sections 10130, 10085, 10146 of the Code  
and Section 2970 of Title 10, California Code of Regulations (hereinafter "Regulations").

\* \* \*

ORDER

I

1  
2 A. All real estate license(s) and license rights of Respondent are revoked.

3 B. A restricted real estate salesperson license shall be issued to Respondent pursuant to  
4 Section 10156.6 of the Code if within ninety (90) days of the effective date of the Order,  
5 Respondent makes application therefore and pays to the Department the appropriate fee for  
6 said license.

7 C. The restricted license issued to Respondent shall be subject to all of the provisions of  
8 Section 10156.7 of the Code and to the following conditions and limitations imposed under  
9 authority of Section 10156.6 of said Code:

10 1) The restricted license issued to Respondent may be suspended prior to hearing by  
11 order of the Real Estate Commissioner in the event of Respondent's conviction or plea  
12 of nolo contendere to a crime which bears a substantial relationship to Respondent's  
13 fitness or capacity as a real estate licensee.

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

19 3) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate  
20 license, nor the removal of any of the conditions of the restricted license, until four (4)  
21 years have elapsed from the effective date of this Order.

22 4) Respondent shall submit with any application for license under an employing broker,  
23 or any application for transfer to a new employing broker, a statement signed by the  
24 prospective employing real estate broker on a form approved by the Department of  
25 Real Estate which shall certify:

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

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

E. Any restricted license issued to Respondent pursuant to this Decision shall be suspended  
for a period of sixty (60) days from the issuance of the restricted license.

E. Respondent shall, within nine (9) months from the effective date of this Order, 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 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 Respondent  
presents such evidence. The Commissioner shall afford Respondent the opportunity for  
hearing pursuant to the APA to present such evidence.


5-Jan-11  
DATED

  
\_\_\_\_\_  
TRULY SUGHRUE  
Counsel for Complainant

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I have read the Stipulation and Agreement, 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, and I willingly, intelligently and voluntarily waive  
those rights, including the right of requiring the Commissioner to prove the allegations in the  
Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
and to present evidence in defense and mitigation of the charges.

1-4-11  
DATED

  
\_\_\_\_\_  
ERMA GRAHAM  
Respondent

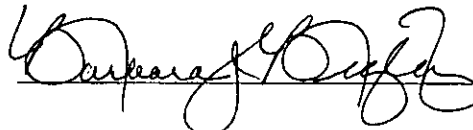
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The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
shall become effective at 12 o'clock noon on **FEB 28 2011**

IT IS SO ORDERED 1/14, 2011.

JEFF DAVI  
Real estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner



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NOV 19 2010

DEPARTMENT OF REAL ESTATE

*[Signature]*

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789  
7 (916) 227-0781 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 ERMA GRAHAM, )

13 Respondent. )

No. H-2549 FRESNO

ACCUSATION

14  
15 The Complainant, Luke Martin, a Deputy Real Estate Commissioner of the State  
16 of California, for cause of Accusation against ERMA GRAHAM (hereinafter "Respondent"), is  
17 informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

19 1

20 The Complainant, Luke Martin, a Deputy Real Estate Commissioner of the State  
21 of California, makes this Accusation in his official capacity.

22 2

23 Respondent is presently licensed and/or has license rights under the Real Estate  
24 Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a restricted real  
25 estate salesperson. At no time mentioned was Respondent licensed by the Department as a real  
26 estate broker.

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At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage and/or loan modification business with the public wherein each of them solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation.

FIRST CAUSE OF ACTION

4

Each and every allegation in Paragraphs 1 through 3, are incorporated by this reference as if fully set forth herein.

5

Beginning on or about January 6, 2009, Respondent, in course of the real estate activities described in Paragraph 3, solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation, including but not limited to the following:

<u>PROPERTY OWNER</u>	<u>PROPERTY LOCATION</u>
Maria B.	1307 E. Evening Glow Avenue Reedley, California

6

By the commission of the acts alleged above, Respondent engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Section 10131(b) of the Business and Professions Code.

///  
///

The facts alleged in the First Cause of Action are grounds for the suspension or revocation of the licenses of Respondent under Section 10130 of the Code in conjunction with 10177(d) of the Code.

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 7, are incorporated by this reference as if fully set forth herein.

In connection with the operation and conduct of the real estate activities described in Paragraph 3, Respondent engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code including but not limited to the following:

<u>PROPERTY OWNER</u>	<u>DATE</u>	<u>ADVANCE FEE</u>
Maria B.	1/6/09-2/25/09	\$2,950.00

In connection with the collection and handling of said advance fee, Respondent failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10, California Code of Regulations (hereinafter "Regulations").

The acts and/or omissions of Respondent described in the Second Cause of Action, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085 and 10146 of the Code and Section 2970 of the Regulations, and are cause for the suspension or revocation of Respondent's license and license rights.

///

1 PRIOR PROCEEDING

2 12

3 Effective December 21, 1998, in Case No. H-1379 FRESNO, before the  
4 Department of Real Estate, the Real Estate Commissioner denied the real estate salesperson  
5 license of Respondent, for violation of Sections 480(a), and 10177(b) of the Code, but granted  
6 the right to a restricted real estate salesperson license, on terms, conditions, and restrictions set  
7 forth in the Order.

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
10 action against all licenses and license rights under the Real Estate Law (Part 1 of Division 4 of  
11 the Business and Professions Code) of Respondent, and for such other and further relief as may  
12 be proper under applicable provisions of law.

13  
14 

15 \_\_\_\_\_  
LUKE MARTIN  
Deputy Real Estate Commissioner

16 Dated at Fresno, California,  
17 this 12<sup>th</sup> day of November, 2010