


FILED

March 25, 2015

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of |) | Case No. H-4649 SD |
| |) | Case No. H-4650 SD |
| SUZETTE JACKSON, |) | |
| |) | OAH Case No. 2014070380 |
| Respondent. |) | |
| |) | |

DECISION AFTER REJECTION

This matter was heard by Alan Meth, Administrative Law Judge (“ALJ”) Office of Administrative Hearings (“OAH”), State of California, on September 9, 2014 in San Diego, California.

Cheryl D. Keily, Bureau of Real Estate Staff Attorney, represented Complainant Veronica Kilpatrick (“Complainant”), a Deputy Real Estate Commissioner of the Bureau of Real Estate (“Bureau” or “BRE”) in Case No. H-4649 SD and Complainant Sylvia Yrigollen, also a Deputy Real Estate Commissioner for the Bureau, in Case No. H-4650 SD. Respondent SUZETTE JACKSON (“Respondent”) appeared personally and represented herself in this matter.

Both matters were consolidated for hearing on September 9, 2014, at which time oral and documentary evidence was received; argument was heard; the record closed; and the matter was submitted for decision on the same day.

1 On September 24, 2014, ALJ Alan Meth issued a Proposed Decision which I declined
2 to adopt as my Decision herein.

3 Pursuant to Section 11517(c) of the Government Code of the State of California,
4 Respondent was served with notice of my determination not to adopt the Proposed Decision of the
5 ALJ along with a copy of said Proposed Decision. Respondent was notified that I would decide the
6 case upon the record, the transcript of proceedings held on September 9, 2014, and upon any written
7 argument offered by Respondent and Complainant. Respondent and Complainant each submitted
8 argument.

9 I have given careful consideration to the record in this case, including the transcript of
10 proceedings of September 9, 2014. I have also considered the arguments submitted by Respondent
11 and by Complainant. The following shall constitute the Decision of the Real Estate Commissioner
12 (“Commissioner”) in this proceeding:

13 FINDINGS OF FACT

14 *Parties and Jurisdiction*

15 1. The Complainants brought the Accusations in Case Nos. H-4649 SD and
16 H-4650 SD in their official capacities on June 24, 2014. For the purpose of the September 9, 2014
17 hearing and the resulting September 24, 2014 Proposed Decision, OAH combined both Accusations
18 into one single case and imposed discipline on both Respondent’s real estate broker (“REB”) license
19 pursuant to Sections 490 and 10177(b) of the Business and Professions Code (“Code”) and her
20 mortgage loan originator (“MLO”) license endorsement pursuant to Code Sections 10166.051(b) and
21 10166.05(c).

22 2. Respondent is presently licensed and has license rights under the Real Estate Law,
23 Part 1 of Division 4 of the Code, as a real estate broker, and had an MLO license endorsement which
24 expired on December 31, 2014.

25 (a) Respondent was originally licensed as a real estate broker on or about June 28,
26 2004.

1 (b) Respondent's MLO license endorsement was approved on or about August 1,
2 2012, and expired on December 31, 2014.

3 *Criminal Conviction*

4 3. On or about May 8, 2013, in the Superior Court of California, County of San
5 Diego, in Case No. 243284, Respondent pled guilty to and was convicted of one count of violating
6 California Penal Code Section 532(a) (obtaining property/labor services by false pretenses), a
7 felony reduced to a misdemeanor pursuant to Penal Code Section 17b, and ten counts of violating
8 Code Section 17533.7(a) (unlawful solicitation indicating governmental connection), a
9 misdemeanor.

10 4. The underlying facts that gave rise to Respondent's criminal convictions are as
11 follows: In 2011 Respondent started a business called Property Tax Exemption ("PTE") that filed
12 property tax exemptions on behalf of homeowners in San Diego County for a fee of \$25.00.
13 Respondent utilized two websites to promote her business, <http://mypropertytaxexemption.com/>
14 and <http://sandiegocountygov.us/>. Respondent also advertised her business through mailings
15 which contained the seal of the County of San Diego that she copied from Wikipedia. Although
16 Respondent learned from the County Assessor that her use of the San Diego county seal was
17 unlawful, she continued using a re-designed version of it, altering the appearance to include a
18 disclosure indicating that her services were not associated with any governmental agency and that
19 a homeowner can obtain a homeowners exemption at no cost from the County Assessor's office.

20 5. An investigator from the San Diego County District Attorney's office contacted
21 several homeowners who used PTE's services, who relayed that they thought they were dealing
22 with a governmental agency due to the official-looking seals, the header "San Diego County
23 Property Tax Exemption," and the official sounding websites. The homeowners further indicated
24 to the investigator that they would not have dealt with PTE had they known it was a private
25 company. Upon obtaining a search warrant for Respondent's bank records, the investigator found
26 that 296 personal checks for \$25.00 each had been made to PTE for a total of \$7,400.

1 6. Respondent's guilty plea for the false pretenses offense covered unlawful acts
2 occurring between April 24, 2011 and January, 2012; this timeframe is inclusive of the periods
3 before and after Respondent met with the County Assessor. Respondent's guilty plea for the
4 unlawful solicitation offense covered unlawful acts occurring between September 26, 2011 and
5 January 2012; this timeframe is inclusive of the period of time after Respondent met with the
6 County Assessor.

7 7. Respondent was placed on three years probation on certain conditions, including
8 that she perform 100 hours of community service; pay fines in the amount \$300.00; pay additional
9 fees; and pay restitution in an amount to be determined at a rate of \$50.00 per month.

10 8. At hearing, Respondent testified that she started PTE in 2011 when her mortgage
11 loan business failed during the recession. She testified that the exemption could be obtained for
12 free by any homeowner who filled out the requisite county form and that if the homeowner did not
13 receive an exemption, Respondent did not charge her \$25 fee. Respondent testified that she
14 believed she acted honestly and fairly, and that she did not intend to defraud anyone. She further
15 testified that she did not know her use of the county seal was unpermitted and that she changed it
16 after meeting with the County Assessor. Respondent asserted that her only offense was that the
17 seal she used in her materials was too similar to the government seal.

18 9. Respondent testified that she has been paying restitution in the amount \$50.00
19 per month since the time of her sentencing, but that she did not know exactly how much restitution
20 she was required to pay. She believes the balance owing on the restitution payments is about
21 \$2,000.

22 10. Since the time of her convictions, Respondent testified that she volunteers at
23 her local church periodically to help feed the homeless. She also testified that she took courses at
24 a community college in order to obtain her MLO license endorsement.

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1 LEGAL CONCLUSIONS

2 *Mortgage Loan Originator License Endorsement*

3 1. Cause exists to suspend, revoke or condition Respondent's mortgage loan originator
4 license endorsement pursuant to Code sections 10166.05, subdivision (c) and 10166.051(b). A
5 mortgage loan originator license endorsement holder must meet minimum threshold levels of honesty
6 and integrity within the confines of Code Section 10166.05. Respondent's convictions for false
7 pretenses and unlawful solicitation render her unfit to hold a mortgage loan originator endorsement.

8 *Real Estate Broker License*

9 2. Cause exists to suspend or revoke Respondent's real estate broker license under Code
10 Sections 490 and 10177 (b), due to Respondent's 2013 convictions for crimes of dishonesty that are
11 substantially related to the qualifications, functions and duties of a real estate licensee pursuant to
12 Section 2910 (a), subsections (1), (2), (4), and (8) of the Regulations, as Respondent's crimes
13 involved fraud, forgery, misrepresentation, and were perpetrated with the intent of conferring a
14 financial benefit to herself. The underlying facts surrounding her conduct before, and even after she
15 was informed of the illegality of her unpermitted use of the seal, are collectively indicative of a pattern
16 of willful disregard of the law.

17 3. As cause exists to suspend or revoke Respondent's real estate license,
18 Respondent bears the burden of establishing rehabilitation. (*Martin v. Alcoholic Beverage Control*
19 *Appeals Bd.* (1950) 52 Cal.2d 259, 264-265.) To date, Respondent has not satisfied the applicable
20 criterion of the Bureau's Criteria for Rehabilitation set forth in Section 2912 of the Regulations.
21 Respondent's proffered testimony yields an insufficient demonstration of rehabilitation to merit
22 continued licensure of Respondent in an unsupervised, broker capacity:

23 a. Section 2912(a) of the Regulations: Barely two years have elapsed since
24 Respondent's convictions in January 2013. Given the nature of Respondent's crimes and the context
25 under which they were carried out, a longer period of time should be utilized in evaluating

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1 Respondent's rehabilitation. At the present time an insufficient period of time has elapsed to establish
2 rehabilitation.

3 b. Section 2912 (b) of the Regulations: Respondent did not proffer any evidence
4 that she has paid the court-ordered restitution amount in full.

5 c. Section 2912 (c) of the Regulations: Respondent's convictions have not been
6 expunged.

7 d. Section 2912(e) of the Regulations: Respondent did not proffer any evidence
8 of probation termination.

9 d. Section 2912 (g) of the Regulations: Respondent did not proffer any evidence
10 that she has paid the court-ordered fines in full.

11 e. Sections 2912(i) and (j) of the Regulations: Respondent did not proffer any
12 evidence of new or different relationships, familial or otherwise, from those existing at the time of the
13 conviction.

14 f. Section 2912(k) of the Regulations: Respondent testified as to educational
15 endeavors only insofar as that which was required for her MLO license endorsement.

16 g. Section 2912(l) of the Regulations: Respondent testified to community
17 involvement through her church , but did not substantiate her activities with witness testimony or
18 documentary evidence.

19 h. Section 2912(m) of the Regulations: Although Respondent acknowledged in
20 her testimony that she made mistakes, it was unclear whether she understood how her use of the
21 county seal misled homeowners into believing the mailings originated from the government when in
22 fact they did not. Respondent gave no indication that her attitude about her past misconduct has
23 changed; nor has she demonstrated sufficient rehabilitation to merit continued licensure as a real estate
24 broker.

25 4. The Real Estate Law and the disciplinary procedures provided for in the Real Estate
26 Law are designed to protect the public and to achieve the maximum protection for those dealing with
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1 to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefore
2 and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days
3 from the effective date of this Decision. The restricted license issued to Respondent shall be subject
4 to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions
5 and restrictions imposed under authority of Section 10156.6 of that Code:

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

10 2. The restricted license issued to Respondent may be suspended prior to hearing
11 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
12 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
13 Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

14 3. Respondent shall not be eligible to apply for the issuance of an unrestricted real
15 estate license nor for the removal of any of the condition, limitations or restrictions of a restricted
16 license until three (3) years have elapsed from the effective date of this Decision.

17 4. Respondent shall submit with any application for license under an employing
18 broker, or any application for transfer to a new employing broker, a statement signed by the
19 prospective employing real estate broker on a form approved by the Bureau of Real Estate which
20 shall certify:

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

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

26 ///.

1 5. Respondent shall, within nine months from the effective date of this Decision,
2 present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most
3 recent issuance of an original or renewal real estate license, taken and successfully completed the
4 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
5 real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the
6 suspension of the restricted license until the Respondent presents such evidence. The Commissioner
7 shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to
8 present such evidence.

9 6. Respondent shall notify the Commissioner in writing within 72 hours of any
10 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box
11 137007, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's arrest, the
12 crime for which Respondent was arrested and the name and address of the arresting law enforcement
13 agency. Respondent's failure to timely file written notice shall constitute an independent violation of
14 the terms of the restricted license and shall be grounds for the suspension or revocation of that
15 license.

16 7. Respondent shall reimburse the Bureau its costs of investigation and
17 enforcement in the amount of \$1,647.50 within 60 days of the effective date of this Decision.

18 If Respondent applies for and receives a restricted real estate salesperson license, the
19 mortgage loan originator license endorsement shall attach to said restricted license.

20 This Decision shall become effective at 12 o'clock noon on APR 15 2015.

21 IT IS SO ORDERED 3/25/2015

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23 REAL ESTATE COMMISSIONER

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26 Wayne S. Bell
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FILED

OCT 28 2014

BUREAU OF REAL ESTATE

By



BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

SUZETTE JACKSON,

Respondent.

No. H-4649 SD

No H-4650 SD

OAH No. 2014070380

NOTICE

TO: SUZETTE JACKSON, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated September 24, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated September 24, 2014, is attached 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 September 9, 2014, any written argument hereafter submitted on behalf of Respondent and Complainant.

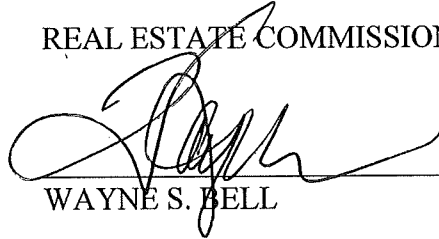
Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of September 9, 2014, at the

1 Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Los Angeles office of the
5 Bureau of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: October 23, 2014

7 REAL ESTATE COMMISSIONER

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10 WAYNE S. BELL

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BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

SUZETTE JACKSON,

Respondent.

Case No. H-04649 SD

Case No. H-04650 SD

OAH No. 2014070380

PROPOSED DECISION

Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on September 9, 2014, in San Diego, California.

Cheryl D. Keily, Real Estate Counsel, represented complainant.

Respondent Suzette Jackson represented herself.

The two matters were consolidated for hearing and were submitted on September 9, 2014.

FACTUAL FINDINGS

1. Veronica Kilpatrick, Deputy Real Estate Commissioner of the Bureau of Real Estate of the State of California (Bureau) filed Accusation No. H-04649 SD in her official capacity on June 24, 2014. Ms. Jackson filed a timely Notice of Defense. This accusation was filed against Ms. Jackson's real estate broker's license.

Sylvia Yrigollen, Deputy Real Estate Commissioner of the Bureau, filed Accusation No. H-04650 SD in her official capacity on June 24, 2014. Ms. Jackson filed a timely Notice of Defense. This accusation was filed against Ms. Jackson's individual mortgage loan originator license endorsement.

2. Ms. Jackson was originally issued a real estate salesperson license on October 28, 1998. The license was terminated as of June 27, 2004, and on June 28, 2004, the Bureau issued real estate broker license number B/01246250 to Ms. Jackson.

On August 1, 2012, an individual mortgage loan originator (MLO) license endorsement was approved for Ms. Jackson and was placed on an inactive status. It was terminated on January 1, 2013, because Ms. Jackson failed to renew it. It was approved in an inactive status on February 25, 2013, and then approved on March 1, 2013.

3. On January 18, 2013, in the Superior Court of California, County of San Diego, Ms. Jackson pleaded guilty and was convicted of one count of violating Penal Code section 532, subdivision (a), obtaining money by false pretenses, and ten counts of violating Business and Professions Code section 17533.6, subdivision (a), unlawful solicitation indicating governmental connection. The false pretenses charge was pled as a felony. All of the unlawful solicitation charges were pled as misdemeanors.

On May 8, 2013, the court placed Ms. Jackson on probation for three years on condition, among others, she perform 100 hours of community service, pay a fine of \$400.00 which was reduced to \$300.00 because of a credit for time served in custody of one day, pay additional fees, and pay restitution in an amount to be determined at the rate of \$50.00 per month. The court also reduced the false pretenses conviction to a misdemeanor. The minute order for these proceedings listed numerous restitution victims to be determined.

4. The facts and circumstances of the offenses according to the District Attorney's Investigation Report are as follows:

Ms. Jackson created a business in 2011 called Property Tax Exemption (PTE) that filed homeowner property tax exemptions on behalf of homeowners with the County of San Diego (County), and charged \$25.00 for the service. Ms. Jackson learned from the County who had purchased homes and sent them mailings describing how she could obtain a property tax exemption for them. One of the documents she sent out contained the seal of the County that she had obtained and copied from Wikipedia. She later re-designed the seal and placed a disclosure inside the seal indicating that the homeowner exemption service was not associated with any governmental agency and that a homeowner can obtain a homeowners exemption at no cost from the county assessor's office. The PTE mailings included references to two websites (www.mypropertytaxexemption.com and www.sandiegocountygov.us) that were registered to Ms. Jackson.

Ms. Jackson met with Ernest J. Dronenburg, the County Assessor, on July 20, 2011. Ms. Jackson told him that a television reporter had called her company a scam and a fraud and that she was just trying to provide a service. Mr. Dronenburg told Ms. Jackson that she could provide the service but could not use the County seal and that she had to disclose in her mailing that her company was not a part of the government. He pointed to a PTE mailing that had the County seal on it and told her she could not do this. Ms. Jackson said she thought she could use the seal because she had been born in San Diego County. Mr. Dronenburg told Ms. Jackson that he would provide her with the statutes that contained the requirements for the offering of homeowners' exemptions. Shortly thereafter, the assistant assessor sent to Ms. Jackson the verbatim texts of Business and Professions Code sections 17537.8 and 17533.6, and Ms. Jackson received them. Mr. Dronenburg never approved any PTE mailing designs or saw the re-designed seals.

A District Attorney investigator contacted several people who used PTE services. They told the investigator that they thought they were dealing with a governmental agency and not with a private company. They cited the official looking seals, the header "San Diego County Property Tax Exemption," and the official sounding websites as reasons that they

thought the mailings came from a governmental agency. These people told the investigator that they would not have dealt with PTE if they had known that PTE was a private company. The investigator obtained a search warrant for Ms. Jackson's bank records and obtained them. The records showed that between May and September 2011, there had been 296 personal checks made payable to PTW for \$25.00 each. The total was \$7,400.00.

The false pretenses offense that Ms. Jackson pled guilty to alleged that the unlawful acts occurred between April 24, 2011, and January 11, 2012, and covered a period both before and after Ms. Jackson met with Mr. Dronenburg. The 10 counts of unlawful solicitation indicating governmental connection alleged that Ms. Jackson committed the unlawful acts between September 26, 2011, and January 11, 2012. Ms. Jackson committed all of these offenses after she met with Mr. Dronenburg and after she purportedly changed the design of her seals.

5. Ms. Jackson's convictions are substantially related to the qualifications, functions, or duties of a real estate salesperson. (Tit. 10, Cal. Code of Regs., §2910, subd. (a) (1), (4), (8).)

6. Ms. Jackson testified that she started her tax exemption business in 2011 after her mortgage loan business failed during the recession. She explained that she saw an opportunity to provide a service to people who were purchasing homes and that she never received any money from any homeowner without providing her service of filing for property tax exemptions. Ms. Jackson noted that the tax exemption could be obtained for free by any homeowner by filing the requisite county form. She testified that if the homeowner did not obtain the exemption, she did not receive any money. She believed that she acted honestly and fairly, and pointed out that she disclosed in her mailings that she was not a governmental entity but rather was a private business. Ms. Jackson testified that she did not intend to defraud anyone and in fact did not defraud anyone, and her only offense was that the seals she used were too similar to governmental seals and the disclosure she provided appeared inside the seals.

Ms. Jackson testified that she did not know that her use of a County seal was not permitted, and she changed it after she met with Mr. Dronenburg. She acknowledged she made mistakes although it was not clear from her testimony that she understood that her use of the seals misled people into believing that the mailings she sent out had come from a governmental entity when in fact they had not.

Ms. Jackson has not worked in real estate since the recession and has not worked under her MLO license endorsement.

Ms. Jackson testified that she was ordered to pay restitution at the rate of \$50.00 per month and she has been doing that since she was sentenced. She did not know exactly how much restitution she was required to pay. She believed she had paid about \$800.00 and still owed about \$2000.00.

Ms. Jackson testified that she volunteers through her church on a periodic basis to help feed the homeless. She took classes at a community college to obtain her MLO license endorsement.

7. The Bureau incurred costs of investigation in the amount of \$846.50 and attorney costs in the amount of \$801.00. The total costs of investigation and enforcement in this matter are \$1,647.50. The amount is reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 490 provides in part:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . .”

2. Business and Professions Code Section 10177 provides in pertinent part:

“The commissioner may suspend or revoke the license of a real estate licensee . . . who has done any of the following . . .

“(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of not guilty, or dismissing the accusation or information.”

3. Cause to suspend or revoke respondent’s real estate broker’s license was established pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), conviction of a crime that is substantially related to the qualifications, functions, and duties of a real estate salesperson, by reason of Factual Findings 3, 4, and 5.

4. In response to the housing crisis that led to the recession starting in 2007, Congress enacted the Housing and Recovery Act of 2008 (Pub.L. No. 110-289 (July 30, 2008)) to provide, among other things, needed housing reform. Part of this comprehensive legislation included the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or “S.A.F.E. Mortgage Licensing Act of 2008.” (12 U.S.C.A. §§ 1501 et.seq.)

Section 1502 of the S.A.F.E. Mortgage Licensing Act provides:

In order to increase uniformity, reduce regulatory burden, enhance

consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

- (1) Provides uniform license applications and reporting requirements for State-licensed loan originators.
- (2) Provides a comprehensive licensing and supervisory database.
- (3) Aggregates and improves the flow of information to and between regulators.
- (4) Provides increased accountability and tracking of loan originators.
- (5) Streamlines the licensing process and reduces the regulatory burden.
- (6) Enhances consumer protections and supports anti-fraud measures.
- (7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.
- (8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.
- (9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.
- (10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

Section 1504 of the S.A.F.E. Mortgage Licensing Act provides that an individual cannot engage in the business of a loan originator without obtaining a registration and a license issued by a state. Section 1505 requires the state perform a criminal and administrative background check and obtain a credit report of the applicant. It also sets forth the minimum standards for licensing and registration, education requirements and testing procedures. In particular, section 1505, subdivision (b)(3) provides:

The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this title.

5. In order to implement the S.A.F.E. Mortgage Licensing Act, the Legislature in 2009 enacted Business and Professions Code section 10166.01 et seq. The Legislature considered the legislation urgent and it went into effect immediately.

Section 10166.01, subdivision (b)(1) defined a mortgage loan originator as “an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain.”

6. Business and Professions Code section 10166.05 provides:

Notwithstanding any other provision of law, the commissioner shall not issue a license endorsement to act as a mortgage loan originator to an applicant unless the commissioner makes all of the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

(b)(1) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing, or at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.

(2) For purposes of this subdivision, an expunged or pardoned felony conviction shall not require denial of an application. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or pardoned felony conviction when determining the eligibility of an applicant for licensure under this subdivision or subdivision (c).

(c) The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the article.

(d) The applicant has complied with the education and written testing requirements in Section 10166.06.

7. Business and Professions Code section 10166.051 provides:

In addition to any penalties authorized by regulations adopted pursuant to Section 10166.15, the commissioner may do one or more of the following, after appropriate notice and opportunity for hearing:

(a) Deny, suspend, revoke, restrict, or decline to renew a mortgage loan

originator license endorsement for a violation of this article, or any rules or regulations adopted hereunder.

(b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license endorsement, if an applicant or endorsement holder fails at any time to meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.

8. California Code of Regulations, title 10, section 2758.3 provides in part:

The Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the fiduciary role of a mortgage loan originator.

In order to apply for a mortgage loan originator license endorsement, an applicant shall authorize the Nationwide Mortgage Licensing System and Registry (NMLSR) to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the NMLSR's electronic application form, in order to support the Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code....

9. Cause to suspend, revoke, or condition Ms. Jackson's mortgage loan originator license endorsement pursuant to Business and Professions Code sections 10166.05, subdivision (c) and 10166.051, subdivision (b), was established by Factual Findings 3 and 4. Based upon Ms. Jackson's convictions of false pretenses and unlawful solicitation, it can no longer be concluded that she will operate honestly, fairly, and efficiently as a mortgage loan originator.

10. Title 10, California Code of Regulations, section 2912 provides:

The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications,

functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.

(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.

(g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

(h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.

(i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

11. The evidence in light of the Department's criteria of rehabilitation shows that Ms. Jackson was convicted of one felony count of obtaining money by false pretenses (later reduced to a misdemeanor), and 10 misdemeanor counts of unlawful solicitation indicating governmental connection 20 months ago. The court placed her on probation for three years and she remains on probation. The court ordered Ms. Jackson to pay restitution and she has been regularly making the \$50.00 a month payment required by the court, but she has not completed paying restitution. Ms. Jackson complied with the others terms and conditions of probation. The convictions have not been expunged nor has the period of probation been reduced. Ms. Jackson has not been convicted of any subsequent offense.

Ms. Jackson's convictions arose out of an ill-fated attempt to create a business after her real estate business collapsed during the recession. Following the conviction, Ms. Jackson stopped offering her property tax exemption service.

Ms. Jackson offered no evidence relating to new and different social and business relationships, her family life, or further education. Ms. Jackson has regularly worked through her church on behalf of the homeless.

Ms. Jackson's only evidence came from her own testimony. She admitted making mistakes but it was not clear whether she understood what mistakes she made. She continually pointed to the seals she created as the only reason for her conviction but it was apparent from her testimony that she did not believe she did anything wrong. She believed she acted honestly and fairly because she never accepted any money from a homeowner unless she obtained a property tax exemption for that homeowner. Ms. Jackson did not seem to understand that her use of the governmental-appearing seals had the effect of misleading the public into believing her mailings came from a governmental entity.

12. There are two licenses involved in this matter: Ms. Jackson's real estate broker's license and her MLO license endorsement. They require different analyses. Ms. Jackson originally obtained her MLO license endorsement on August 1, 2012, but she has never used it. It was inactive for most of the time since it was issued, and has become active

only since March 1, 2013. Ms. Jackson originated loans before the enactment of the S.A.F.E. Mortgage Licensing Act using her broker's license but she cannot perform that service now without the license endorsement. On the other hand, Ms. Jackson was a real estate salesperson for six years and has held her broker's license for 10 years.

Congress enacted the S.A.F.E. Mortgage Licensing Act in response in part to the serious problems resulting from the origination of poor home loans. It imposed higher standards on, among other things, the qualifications of loan originators. (12 U.S.C.A. §§ 1505, subd. (b)(3); Bus. & Prof. Code § 10166.05, subd. (c).)

Business and Professions Code section 10166.05, subdivision (b)(1) precludes an applicant from receiving a license endorsement to originate loans if the applicant was convicted of a felony involving fraud, dishonesty or a breach of trust. Ms. Jackson was originally convicted of a felony involving fraud and dishonest, and had the conviction remained a felony, she would have been precluded from holding the license endorsement to originate loans. However, the conviction was reduced to a misdemeanor at the time of sentencing, and consequently is one factor to be considered in deciding whether to revoke, suspend or condition the license endorsement in the same way an expunged or pardoned conviction may be considered under section 10166.05, subdivision (b)(2).

The fact that Ms. Jackson's conviction of obtaining money by false pretenses was reduced from a felony to a misdemeanor does not change the character of the offense. Essential elements of the offense include a false or fraudulent representation or pretense and the defrauding of another person of money. Ms. Jackson knowingly and designedly committed numerous criminal acts over a period of almost nine months, and she committed some of them even after she spoke to the County assessor and was given the relevant statutes. There is no question that Ms. Jackson's conviction of obtaining money by false pretenses and the conviction of 10 counts of unlawful solicitation falsely indicating government connection reflect adversely on her honesty and her ability to act fairly and efficiently within the scope of the S.A.F.E. Mortgage Licensing Act.

Ms. Jackson has no track record of originating loans under the S.A.F.E. Mortgage Licensing Act to fall back on. She testified she worked as a broker obtaining home loans for clients until 2008 when the housing crisis occurred, but has not originated any loans either under her broker's license or the mortgage loan originator license endorsement since then. Ms. Jackson offered no evidence from any clients or persons in the real estate industry to show how well and how honestly she performed her professional obligations. In light of the higher standards imposed by the S.A.F.E. Mortgage Licensing Act and the absence of any evidence of mitigation or rehabilitation, it is concluded that Ms. Jackson's mortgage loan originator license endorsement should be revoked.

13. Ms. Jackson does have a track record with respect to her broker's license. She has held either a salesperson's license or a broker's license for 16 years, and this is the first disciplinary action brought against either of her licenses.

Ms. Jackson's convictions did not involve professional activities relating to her broker's license. After her real estate business collapsed, Ms. Jackson devised a scheme to earn money that did not require a real estate license by providing a service to homeowners. If a homeowner agreed, she filed the requisite form on behalf of the homeowner that resulted in the homeowner receiving a property tax exemption. That the homeowner could file the requisite form at no cost and without the assistance of Ms. Jackson's business did not render her services criminal. Furthermore, it does not appear that Ms. Jackson's convictions resulted from her receipt of money for services that she did not perform.

Ms. Jackson's crime was that she went too far in trying to obtain business by deceiving and misleading new homeowners into believing that the services of a governmental entity were necessary in order for them to obtain a property tax exemption when in fact they were not. Hundreds of homeowners believed they were dealing with a governmental entity and agreed to have Ms. Jackson file the property tax exemption form on their behalf, and they each paid her \$25.00. Ms. Jackson's conduct was wholly inconsistent with the duties and responsibilities of a real estate broker, who is obligated to be honest and truthful with clients and who must disclose all relevant information to them. Ms. Jackson is in the process of making restitution by repaying those she misled and is complying with the court order in this regard. Those who have or will receive restitution will suffer no harm. Those who do not receive restitution will have suffered a loss of \$25.00, but will nevertheless have obtained a property tax exemption. The crimes, although significant, are not grave and unpardonable. Ms. Jackson deserves the opportunity to continue her rehabilitative journey under the supervision of the Department.

Balancing the severity of the offenses Ms. Jackson committed and considering the circumstances surrounding her commission of the offenses against her lengthy history as a real estate licensee and her willingness to pay restitution to those she harmed, it is concluded that it would not be against the public interest to allow Ms. Jackson to retain her real estate broker's license, although in a restricted form.

14. Cause to order Ms. Jackson to reimburse the Bureau for its costs of investigation and enforcement of this matter in the amount of \$1,647.50 was established by Factual Finding 7.

ORDER

- Not Adopted*
1. The mortgage loan originator license endorsement issued to respondent Suzette Jackson is revoked.
 2. All licenses and licensing rights of respondent Suzette Jackson under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Ms. Jackson pursuant to Section 10156.5 of the Business and Professions Code if Ms. Jackson 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 Ms. Jackson 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 Ms. Jackson may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Ms. Jackson's conviction or plea of nolo contendere to a crime which is substantially related to Ms. Jackson's fitness or capacity as a real estate licensee.

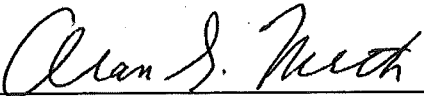
The restricted license issued to Ms. Jackson may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Ms. Jackson has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

b. Ms. Jackson 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 three (3) years have elapsed from the effective date of this Decision.

c. Ms. Jackson shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that she 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 Ms. Jackson fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Ms. Jackson presents such evidence. The Commissioner shall afford Ms. Jackson the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

3. Respondent Suzette Jackson shall reimburse the Bureau its costs of investigation and enforcement in the amount of \$1,647.50 within 60 days of the effective date of this decision.

DATED: September 24, 2014


ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

Not Adopted