

Suzanne Frank-Gerbasi

FILED
FEB 5 2004
DEPARTMENT OF REAL ESTATE

By *Laura B. [Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28254 LA
SUZANNE FRANK-GERBASI,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 10, 2000, an Order was rendered herein, revoking the real estate salesperson license of Respondent SUZANNE FRANK-GERBASI ("Respondent"), but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on May 16, 2000. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On August 4, 2003, Respondent petitioned for reinstatement of her real estate salesperson license. The Attorney General of the State of California has been given notice of the filing of Respondent's petition.

1 I have considered Respondent's petition and the
2 evidence and arguments submitted in support thereof. Respondent
3 has demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate salesperson license and that it would
6 not be against the public interest to issue said license to
7 Respondent SUZANNE FRANK-GERBASI.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent, SUZANNE FRANK-
11 GERBASI, if Respondent satisfies the following conditions within
12 nine (9) months from the date of this Order:


13 1. Submittal of a completed application and payment
14 of the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective

21 Dated: December 19, 2003.

22 JOHN R. LIBERATOR
23 Chief Deputy Commissioner

24 
25 _____

26 cc: Suzanne Frank Gerbasi
27 1615 Crescent Place
Venice, CA 90291

By *Luisa B. D...*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	DRE NO. H-28254 LA
)	OAH NO. L-19980110233
)	
SUZANNE FRANK-GERBASSI,)	<u>STIPULATION AND AGREEMENT</u>
)	
)	<u>AFTER HEARING</u>
)	
)	
Respondent.)	

I, SUZANNE FRANK-GERBASSI, respondent herein, acknowledge that I have received and read the Accusation filed by the Department of Real Estate on October 20, 1999, and the Statement to Respondent sent to me in connection with the Accusation.

In the interest of expedience and economy, I choose not to contest the allegations contained in the Accusation, but to remain silent and understand that, as a result thereof, these allegations, without being admitted or denied, will serve as a prima facie basis for discipline of my real estate salesperson license.

1 I further acknowledge that the Real Estate Commissioner
2 held a hearing on this Accusation on December 20, 1999, before the
3 Office of Administrative Hearings for the purpose of proving the
4 allegations therein. I was present at the hearing represented by
5 counsel and participated therein. Further, I have had an
6 opportunity to read and review the Proposed Decision of the
7 Administrative Law Judge dated January 4, 2000.

8 I understand that pursuant to Government Code Section
9 11517(c), the Real Estate Commissioner has rejected the Proposed
10 Decision of the Administrative Law Judge. I further understand
11 that pursuant to the same Section 11517(c), the Real Estate
12 Commissioner may decide this case upon the record, including the
13 transcript, without taking any additional evidence, after affording
14 me the opportunity to present written argument to the Real Estate
15 Commissioner.

16 I further understand that by signing this Stipulation
17 and Agreement After Hearing (Stipulation), I am waiving my right to
18 obtain a dismissal of the Accusation through proceedings under
19 Government Code Section 11517(c) if this Stipulation is accepted by
20 the Real Estate Commissioner. However, I also understand that I am
21 not waiving my rights to further proceedings to obtain a dismissal
22 of the Accusation if this Stipulation is not accepted by the Real
23 Estate Commissioner.

24 I hereby request that the Real Estate Commissioner, in
25 her discretion, revoke my real estate salesperson license and issue
26 to me a restricted real estate salesperson license under the
27 authority of Section 10156.5 of the Business and Professions Code



1 if I make application therefor and pay to the Department of Real
2 Estate the appropriate fee for said license within 90 days from the
3 effective date of the Decision herein.

4 I further understand that the restricted license shall
5 be subject to the provisions of Section 10156.7 of the Business and
6 Professions Code and the following conditions, limitations and
7 restrictions will attach to the restricted license issued by the
8 Department of Real Estate pursuant hereto:

9 1. The restricted license may be suspended, prior to
10 hearing, by Order of the Real Estate Commissioner
11 in the event of respondent's conviction or plea of
12 nolo contendere to a crime which bears a
13 significant relationship to respondent's fitness
14 or capacity as a real estate licensee.

15 2. The restricted license may be suspended, prior to
16 and pending final determination after formal
17 hearing, by order of the Real Estate Commissioner
18 based upon evidence satisfactory to the
19 Commissioner that respondent has violated
20 provisions of the California Real Estate Law, the
21 Subdivided Lands Law, Regulations of the Real
22 Estate Commissioner or conditions attaching to the
23 restricted license.

24 3. Respondent shall not be eligible to apply for the
25 issuance of an unrestricted real estate license
26 nor the removal of any of the conditions,
27 limitations or restrictions of the restricted



1 license until three years have elapsed from the
2 effective date of the Decision.

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

17 5. Respondent shall within six months from the
18 effective date of this Decision, take and pass the
19 Professional Responsibility Examination administered
20 by the Department including the payment of the
21 appropriate examination fee. If she fails to satisfy
22 this condition, the Commissioner may order suspension
23 of her license until she passes the examination.

24 6. With the application for license, or with the
25 application for transfer to a new employing
26 broker, respondent shall submit a statement signed
27 by the prospective employing broker on a form



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approved by the Department of Real Estate wherein
the employing broker shall certify as follows:

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

(b) That 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.

Dated this 3rd day of March, 2000.

SUZANNE FRANK-GERBASSI, Respondent

Stephen Frye
STEPHEN FRYE, Attorney for
Respondent

* * * * *

I have read the Accusation filed herein, the Proposed
Decision of the Administrative Law Judge dated January 4, 2000, and
the foregoing Stipulation and Agreement After Hearing signed by
respondent and her attorney of record. I am satisfied that it will
not be inimical to the public interest to issue a restricted real
estate salesperson license to respondent.

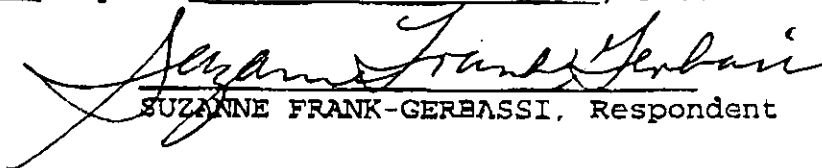
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1 approved by the Department of Real Estate wherein
2 the employing broker shall certify as follows:

3 (a) That the broker has read the Order herein
4 and the Decision which is the basis for the
5 issuance of the restricted license; and

6 (b) That broker will carefully review all
7 transaction documents prepared by the
8 restricted licensee and otherwise exercise
9 close supervision over the licensee's
10 performance of acts for which a license is
11 required.

12 Dated this ___ day of _____, 2000.

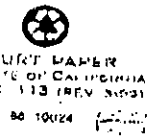
13 
14 SUZANNE FRANK-GERBASSI, Respondent

15
16 _____
17 STEPHEN FRYE, Attorney for
18 Respondent

18 * * * * *

19 I have read the Accusation filed herein, the Proposed
20 Decision of the Administrative Law Judge dated January 4, 2000, and
21 the foregoing Stipulation and Agreement After Hearing signed by
22 respondent and her attorney of record. I am satisfied that it will
23 not be inimical to the public interest to issue a restricted real
24 estate salesperson license to respondent.

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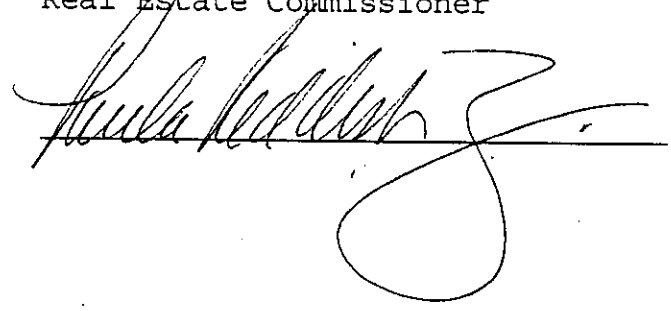
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Therefore, IT IS HEREBY ORDERED that the real estate salesperson license of respondent be revoked and a restricted real estate salesperson license be issued to respondent SUZANNE FRANK-GERBASSI if respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned and restricted as specified in the foregoing Stipulation and Agreement After Hearing.

This Order shall become effective on May 16, 2000.

DATED: April 10, 2000.

PAULA REDDISH ZINNEMANN.
Real Estate Commissioner



5/27/00
Klay

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DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-28254 LA
SUZANNE FRANK-GERBASI,)	
)	L-1999110233
)	
Respondent.)	

NOTICE

TO: Respondent SUZANNE FRANK-GERBASI and STEPHEN FRYE, her counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated January 4, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated January 4, 2000, 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

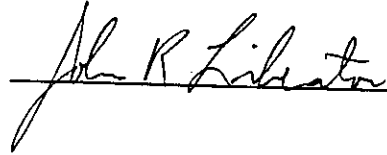
1 including the transcript of the proceedings held on December 20,
2 1999, and any written argument hereafter submitted on behalf of
3 Respondent and Complainant.

4 Written argument of Respondent to be considered by me
5 must be submitted within 15 days after receipt of the transcript
6 of the proceedings of December 20, 1999, at the Los Angeles
7 office of the Department of Real Estate unless an extension of
8 the time is granted for good cause shown.

9 Written argument of Complainant to be considered by me
10 must be submitted within 15 days after receipt of the argument of
11 Respondent at the Los Angeles office of the Department of Real
12 Estate unless an extension of the time is granted for good cause
13 shown.

14 DATED: Feb. 7, 2000

16 PAULA REDDISH ZINNEMANN
17 Real Estate Commissioner

18 
19 _____

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SUZANNE FRANK-GERBASI,

Respondent

Case No. H-28254 LA

OAH No.: 1999110233

PROPOSED DECISION

On December 20, 1999, in Los Angeles, California, Deborah Myers-Young, Administrative Law Judge Pro Tem, Office of Administrative Hearings, heard this matter.

Complainant, Thomas McCrady, Deputy Real Estate Commissioner of the State of California, was represented by Elliott MacLennan, Staff Counsel.

Respondent, Suzanne Frank-Gerbasi, ("Respondent"), was present and was represented by Stephen Frye, Attorney at Law.

Oral and documentary evidence was received, and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge Pro Tem makes the following factual findings:

1. The Accusation was filed by Thomas McCrady, Deputy Real Estate Commissioner of the State of California, acting in his official capacity.
2. Respondent has been licensed as a real estate salesperson since December 1, 1989. Her license will expire on November 30, 2001 unless renewed.
3. On December 2, 1996, Respondent was convicted on her guilty plea, in the United States District Court, Central District of California, Docket No. CR-96-684 GHK, of violating 18 U.S.C. section 1014 2(b) (False statement to federally insured institution), a felony involving moral turpitude and one substantially related to the qualifications, functions and duties of a real estate licensee.

4. Respondent was sentenced to three years probation and to 150 hours of community service. She was also ordered to pay \$ 15,050.00 in restitution and special assessments.

5. The facts and circumstances of the underlying conviction are that between April and May 1991, Respondent signed loan documents and obtained false tax returns, which made her income appear \$ 100,000.00 higher than it should have appeared on her loan application for her personal residence. Respondent had been working as a real estate salesperson almost a year and a half. She was 38 years old, and newly married. She desperately wanted to own her own home. Her husband was a contractor. She was employed by Jon Douglas in Marina Del Rey, and worked with another agent, a co-worker, who showed Respondent a house on the market. Respondent made an offer, even though she could not afford it. She was encouraged by this co-worker to falsify her income, and he introduced her to a loan officer who would "work with them". The loan officer provided her with blank loan documents, which she signed. One month later, he told her she needed new tax returns with an inflated amount of income. She called her accountant, who supplied her with her new returns. The loan was approved based on the false information she provided. Prior to this occasion, she had never purchased a house or signed loan documents. She believed this was the way things were done. This "belief" was not a reasonable one, in light of the fact that Respondent had been licensed as a real estate salesperson for a year and a half, and had met the educational requirements of a salesperson, which included real estate financing.

6. Respondent is the mother of two daughters, ages 30 and 31, whom she raised almost single-handedly. One daughter, Kaylin Frank, described her mother as the "most incredible human being" who was their sole source of economic and emotional support, and believes her mother to be honest and highly ethical. They remain a close family because Respondent is the foundation of the family. Respondent remains close with her brother, and helped her sister in law who was diagnosed with and treated for breast cancer. Respondent went out of her way to provide her with transportation to and from chemotherapy sessions, as well as to provide her with significant emotional support.

7. Respondent is now divorcing her husband. The marriage had been troubled since the purchase of the home, which he gutted and remodeled without sufficient funding. He lost his job, and began drinking. She left her employment with Jon Douglas during the period of her probation, and she ended her association with those involved in the fraudulent application. She began working at Fred Sands in Santa Monica, where she met several agents who began their own company, AP Realty. They recruited her to work for them last year. The owner, Alison St. Onge, holds the Respondent in high regard and believes her to be highly ethical.

8. Respondent is extremely remorseful for her conduct, and blames only herself. She does not deal with financial pressure in her professional real estate transactions the same way. She knows that what she did is not the way things are done. She does not put financial pressure on her clients, and instead becomes "motherly" to them, "holding their hands" through the real estate process.

9. Respondent applied for renewal of her license on December 1, 1997, and disclosed her 1996 federal conviction, and all required information in her application. Her license was renewed.

10. Respondent completed her probation on December 1, 1999. Her probation officer felt that Respondent was responsible about reporting to her, and was honest about her personal life and business practices. Respondent paid her restitution, and on September 7, 1999, received a satisfaction of judgment and release of lien on her home from the United States Attorney's Office.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge Pro Tem makes the following Legal Conclusions.

1. Cause exists to suspend or revoke Respondent's license to act as a real estate salesperson under Business and Profession Code sections 490 and 10177(b) for having been convicted of a crime which is substantially related to the qualifications, functions and duties of a real estate licensee as set forth in Findings 3, 4 and 5.

Respondent's 1996 federal criminal conviction is a serious violation of law which goes to the very heart of real estate transactions. Respondent procured and submitted false documents to a financial institution, increasing her true income by \$ 100,000.00, for the purpose of obtaining a personal real estate loan. Obviously, the honesty of a real estate agent is of paramount importance in all real estate transactions, including the submission of applications to financial institutions. A salesperson must be trusted to provide truthful, accurate financial figures to the real estate buying and selling public, and the financial lending industry. Respondent has committed a serious breach of her duties by her falsification of documents in 1991 which led to her 1996 criminal conviction.

Respondent provided sufficient evidence to establish her rehabilitation since the unlawful act and later conviction. More than eight and a half years have passed since the unlawful act, and more than three years have passed since the criminal conviction. Respondent paid her restitution in full on September 7, 1999. She completed her probation on December 1, 1999. She has corrected her business practices, and has ended her business relationships with those involved in the fraudulent application, including leaving the real estate company where she had been employed. Respondent is obtaining a divorce from her husband, thus ending a relationship which had caused financial strain and hardship. She has obtained gainful employment with former associates starting their own company, who consider Respondent to be highly ethical and a great asset. Respondent has demonstrated a stable family life, and fulfillment of her parental responsibilities. She almost single-handedly raised two daughters, now fully grown, who think very highly of their mother. She has been a vital source of support to her extended family, including helping her sister-in-law through cancer and chemotherapy. Respondent is sincerely remorseful for her fraudulent act, and does not deal with financial transactions in the same way. She does not put financial pressure on her clients.

ORDER

WHEREBY THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Suzanne Frank-Gerbasi under the Real Estate Law are hereby revoked for a period of three years from the effective date of this Decision. Said revocation shall be stayed for three years upon the following terms and conditions:

A restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent 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 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 restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license not for the removal of any of the conditions, limitations or restrictions of a restricted license until three year(s) has/have elapsed from the effective date of this Decision.

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

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

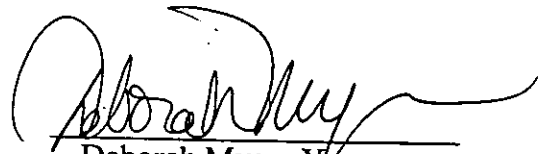
(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, 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 the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

///

Date: January 4, 2000



Deborah Myers-Young
Administrative Law Judge
Pro Tem

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV 23 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
SUZANNE FRANK-GERBASI,)
Respondent.)

Case No. H-28254 LA
OAH No. L-1999110233

By Jane B. O'Connell

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on DECEMBER 20, 1999, at the hour of 10:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: NOV 23 1999

DEPARTMENT OF REAL ESTATE

By: E. J. Lenan
ELLIOTT MAC LENNAN, Counsel

cc: Suzanne Frank-Gerbasi
Stephen Frye, Esq.
Carol Clarke
Sacto. /OAH

Suzanne Frank

FILED
OCT 20 1999

1 ELLIOTT MAC LENNAN, COUNSEL
2 State Bar Number 66674
3 Department of Real Estate
320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
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DEPARTMENT OF REAL ESTATE
By *Laura B. Stone*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-28254 LA
SUZANNE FRANK-GERBASI,)	<u>A C C U S A T I O N</u>
)	
)	
Respondent.)	
_____)	

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against SUZANNE FRANK-GERBASI is informed and alleges in his
19 official capacity as follows:

20 1

21 Respondent is presently licensed and/or has license
22 rights under the Real Estate Law (Part 1 of Division 4 of the
23 California Business and Professions Code) (Code).

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Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate salesperson on December 1, 1989.

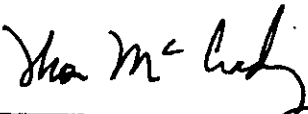
On December 2, 1996, in the United States District Court for the Central District of California, respondent was convicted by judge or jury of violating one count of 18 United States Code Section 1014 (False Statement on Loan Application), a felony which by its facts and circumstances involves moral turpitude and is substantially related under Section 2910, Chapter 6, Title 10, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

The facts alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of respondent under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of respondent SUZANNE FRANK-GERBASI under the Real Estate Law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this OCT 20 1999



Deputy Real Estate Commissioner

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cc: Suzanne Frank-Gerbasi
Sacto.
LF

