

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 23 1997
DEPARTMENT OF REAL ESTATE

By Lucille A. Zinn

* * *

In the Matter of the Accusation of)
DONNA KAYE LUBBEN,)
Respondent.)
_____)

NO. H-1335 FRESNO
N-1997070056

DECISION

The Proposed Decision dated August 29, 1997, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on October 14, 1997.

IT IS SO ORDERED 9/15, 1997.

JIM ANTT, JR.
Real Estate Commissioner

J. Antt Jr.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. H-1335 FRESNO
)	
DONNA KAYE LUBBEN)	OAH No. N-1997070056
)	
)	
Respondent.)	
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PROPOSED DECISION

On August 14, 1997, in Sacramento, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by James L. Beaver, Counsel, Department of Real Estate.

Respondent was present and represented by Richard Iannuzzo, Attorney at Law.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant Delores Vazques-Ramos made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Respondent Donna Kaye Lubben is presently licensed and has license rights under the Real Estate Law as a real estate salesperson. She was initially licensed as a conditional salesperson on November 4, 1989. Her conditional salesperson license expired on May 4, 1991. It was reinstated on April 14,

1993, upon completion of educational requirements. It then expired on November 3, 1993. On October 26, 1995, it was renewed. It will expire on October 25, 1999.

III

On July 29, 1993, in the United States District Court for the Eastern District of California, after a jury verdict, respondent was found guilty and convicted of 13 counts of violating sections 1344 and 2, title 18, of the United States Code (bank fraud and aiding and abetting bank fraud), and one count of violating section 371 of said code (conspiracy to commit bank fraud). These crimes were felonies involving moral turpitude. They bear a substantial relationship to the qualifications, functions or duties of a real estate licensee. On October 11, 1994, the convictions were affirmed on appeal.

As a result of her convictions, respondent was imprisoned for a term of 34 months. Her sentence included three years of supervised release after her imprisonment. During supervised release, she was required to participate in a mental health counseling program. Her judgement of conviction also included a requirement of restitution in the amount of \$375,000.

IV

The facts and circumstances surrounding the above crimes are that during the period of December 1, 1987, through November 4, 1988, while employed as the Chief Loan Officer of United Valley Bank, respondent and others participated in 13 "land flip" transactions, thereby defrauding said bank. The scheme involved the purchase of 13 parcels of property, acquiring false inflated appraisals on said parcels, and then reselling the parcels for a falsely inflated price with a loan (usually 80%) from United Valley Bank.

United Valley Bank was a small local bank in Farmersville, California. Steven Brock had a close relationship with the president and chairman of the bank. John Brock was a cousin of Steven Brock. Eddie Palmer was a business partner of John Brock. In late 1987, Steven Brock, John Brock and Eddie Palmer began bringing loans to the bank on properties outside of the bank's normal lending area. They would obtain straw buyers in whose names houses would be purchased and other straw buyers to whom these houses would then be resold and in whose names loans were obtained from United Valley Bank. For the resales, the three would obtain falsely inflated appraisals from an appraiser, Robin L. Keene. They would pay Keene for the false appraisals. Respondent would approve loans for the bank based upon the falsely inflated values.

Steven Brock, John Brock and Eddie Palmer paid some of the people who served as straw buyers or borrowers for the use of their names and services in conducting the fraudulent scheme. The three would split the net amount of money that they realized as a result of these "land flips" loans among themselves in equal shares. Respondent did not share in these proceeds and was not compensated for her participation in the scheme.

V

Respondent is 40 years old. She has two teenage children. In partial mitigation of her convictions: Respondent's work experience after high school was primarily in the loan department of a small developer controlled savings and loan, Kings Harvest Savings. She began working for the savings and loan in 1979 and continued to work until May 1987. At that time she was the vice president in charge of the mortgage loan division. In approximately 1987, a new group of investors purchased the savings and loan and United Valley Bank in Farmersville. In June 1987, respondent went to work in the mortgage loan department at United Valley Bank.

Prior to her going to United Valley Bank, Steven Brock had become respondent's boyfriend. He had a great deal of influence at United Valley Bank and he arranged to have her hired by the bank. Mr. Brock became a controlling influence in both the bank's affairs and on respondent. Respondent's knowledge of mortgage loans was learned on the job. She was not licensed by the department and had not taken any courses required for licensure.

In early 1989, respondent ended her relationship with Mr. Brock and left her employment at the bank. She began working the in mortgage brokerage business and was licensed in 1990. In November 1990, she cooperated with an FBI investigation of United Valley Bank by providing information and documents.

Respondent is rehabilitating herself. After her release from prison and while she was in a halfway house, she applied for renewal of her salesperson license. Her application included her criminal conviction information. The salesperson license was issued on October 26, 1995. While at the halfway house, respondent also studied to become a manicurist. On April 5, 1996, she was release from supervised release at a halfway house early and began a probation period that will end in 1999. Since entering probation, she has settled her restitution requirements for approximately \$11,500. She has also paid a \$700 fine.

In October 1995, respondent began working for Prime Mortgage in Fresno, California. In July 1996, respondent became employed by Broker Steven Earl Hagen (Pacific Guarantee Mortgage

Corporation), Clovis, California. She is still working for Mr. Hagen. She processes loans and places them with lenders. She has been open about her criminal convictions and has made lenders, title companies, and others she works with aware of them. She has asked them to make sure that they have no questions about her transactions.

Respondent has now taken real estate courses in addition to those required for her license. She has joined professional organizations such as the California Mortgage Bankers Association. She has established a reputation for working very hard, being very professional, and being meticulous in her documentation.

Since returning to the Fresno area, respondent has been receiving regular psychological treatment for codependency from a psychologist. The treatment includes dealing with her vulnerability to the dominance of powerful men. She now feels absolutely confident that she has the courage to deal properly with questionable loan situations.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license was established pursuant to sections 490 and 10177(b) of the Business and Professions Code, by reason of Finding III.

II

Although respondent's convictions resulted from activities which are very similar to her current licensed activities, the mitigation and rehabilitation set forth in Finding V, as well as the fact that the activities leading to her convictions occurred nine years ago, indicate that it would not be against the public interest to grant her a restricted salesperson license.

ORDER

Wherefore, the following order is hereby made:

All license and licensing rights of respondent Donna Kaye Lubben under the Real Estate Law are revoked; provided, however, 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

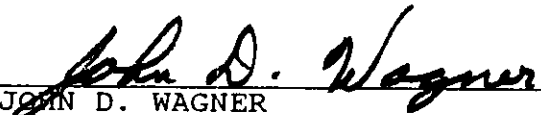
pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following 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 nor for the removal of any of the conditions, limitations or restrictions of a restricted license until five years 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.

6. 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.

Dated: August 29, 1997


JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

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DEPARTMENT OF REAL ESTATE

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

By Laurie A. Zarr

In the Matter of the Accusation of

DONNA KAYE LUBBEN,

Case No. H-1335 FRESNO

OAH No. N1997070056

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 501 J Street, Suite 220 (Second
Floor Hearing Rooms), Sacramento, CA 95814

on Thursday, August 14th, 1997, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: July 14, 1997

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER Counsel

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
MAY 21 1997
DEPARTMENT OF REAL ESTATE

Louis A. Zain

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DONNA KAYE LUBBEN,)
13 Respondent.)

No. H-1335 FRESNO

ACCUSATION

14
15 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against DONNA KAYE LUBBEN (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code") as a real
23 estate salesperson.

24 II

25 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in her official capacity.

III

On or about July 29, 1993, in the United States District Court, Eastern District of California, Respondent was found guilty and convicted of thirteen counts of violating Title 18, United States Code, Sections 1344 and 2 (Bank Fraud and Aiding and Abetting) and a single count of violating Title 18, United States Code Section 371 (Conspiracy To Commit Bank Fraud), each felonies and crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

On or about October 11, 1994, the judgment convicting Respondent of the crimes described in Paragraph III, above, was affirmed on appeal.

V

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

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

8
9 
10 DOLORES VAZQUEZ-RAMOS
Deputy Real Estate Commissioner

11 Dated at Fresno, California,
12 this 23rd day of April, 1997.