

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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FILED
JUN 21 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Jan

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 JIMELA MARGUERITE BEWLEY,) NO. H- 1647 FRESNO
13 Respondent.) STIPULATION
14) AND WAIVER

15 It is hereby stipulated by and between JIMELA
16 MARGUERITE BEWLEY (hereinafter "Respondent"), individually and by
17 and through Rose Pothier, Esq., Respondent's attorney of record
18 herein, and the Complainant, acting by and through James L.
19 Beaver, Counsel for the Department of Real Estate, as follows for
20 the purpose of settling and disposing of the Statement of Issues
21 filed on December 29, 2003 in this matter:

22 A. Respondent acknowledges that she has received and
23 read the Statement of Issues and the Statement to Respondent
24 filed by the Department of Real Estate in connection with her
25 application for a real estate salesperson license. Respondent
26 understands that the Real Estate Commissioner may hold a hearing
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1 on this Statement of Issues for the purpose of requiring further
2 proof of Respondent's honesty and truthfulness and to prove other
3 allegations therein, or that he may in his discretion waive the
4 hearing and grant Respondent a restricted real estate salesperson
5 license based upon this Stipulation and Waiver. Respondent also
6 understands that by filing the Statement of Issues in this matter
7 the Real Estate Commissioner is shifting the burden to Respondent
8 to make a satisfactory showing that Respondent meets all the
9 requirements for issuance of a real estate salesperson license.
10 Respondent further understands that by entering into this
11 stipulation and waiver, Respondent will be stipulating that the
12 Real Estate Commissioner has found that Respondent has failed
13 to make such a showing, thereby justifying the denial of the
14 issuance to Respondent of an unrestricted real estate salesperson
15 license.
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17 B. Respondent hereby requests that the Real Estate
18 Commissioner in his discretion issue a restricted real estate
19 salesperson license to Respondent under the authority of Section
20 10156.5 of the Business and Professions Code.

21 C. Respondent is aware that by signing this
22 Stipulation and Waiver, Respondent is waiving Respondent's right
23 to a hearing and the opportunity to present evidence at the
24 hearing to establish Respondent's rehabilitation in order to
25 obtain an unrestricted real estate salesperson license if this
26 Stipulation and Waiver is accepted by the Real Estate
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1 Commissioner. However, Respondent is not waiving Respondent's
2 right to a hearing and to further proceedings to obtain a
3 restricted or unrestricted license if this Stipulation and Waiver
4 is not accepted by the Commissioner.

5 D. Respondent further understands that the following
6 conditions, limitations, and restrictions will attach to a
7 restricted license issued by the Department of Real Estate
8 pursuant hereto:

9 1. The license shall not confer any property right in
10 the privileges to be exercised including the right of renewal,
11 and the Real Estate Commissioner may by appropriate order suspend
12 the right to exercise any privileges granted under this
13 restricted license in the event of:

14 a. The conviction of Respondent (including a plea of
15 nolo contendere) to a crime which bears a substantial
16 relationship to Respondent's fitness or capacity as a real estate
17 licensee; or

18 b. The receipt of evidence that Respondent has
19 violated provisions of the California Real Estate Law, the
20 Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner, or conditions attaching to this restricted license.

22 2. Respondent shall not be eligible to apply for the
23 issuance of an unrestricted real estate license nor the removal
24 of any of the conditions, limitations or restrictions attaching
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1 to the restricted license until two years have elapsed from the
2 date of issuance of the restricted license to Respondent.

3 3. With the application for license, or with the
4 application for transfer to a new employing broker, Respondent
5 shall submit a statement signed by the prospective employing
6 broker on a form approved by the Department of Real Estate
7 wherein the employing broker shall certify as follows:

8 a. That broker has read the Statement of Issues which
9 is the basis for the issuance of the restricted license; and

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

14 4. Respondent's restricted real estate salesperson
15 license is issued subject to the requirements of Section 10153.4
16 of the Business and Professions Code, to wit: Respondent shall,
17 within eighteen (18) months of the issuance of the restricted
18 license, submit evidence satisfactory to the Commissioner of
19 successful completion, at an accredited institution, of two of
20 the courses listed in Section 10153.2, other than real estate
21 principles, advanced legal aspects of real estate, advanced real
22 estate finance or advanced real estate appraisal. If Respondent
23 fails to timely present to the Department satisfactory evidence
24 of successful completion of the two required courses, the
25 restricted license shall be automatically suspended effective
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1 eighteen (18) months after the date of its issuance. Said
2 suspension shall not be lifted unless, prior to the expiration of
3 the restricted license, Respondent has submitted the required
4 evidence of course completion and the Commissioner has given
5 written notice to Respondent of lifting of the suspension.

6 5. Pursuant to Section 10154, if Respondent has not
7 satisfied the requirements for an unqualified license under
8 Section 10153.4, Respondent shall not be entitled to renew the
9 restricted license, and shall not be entitled to the issuance of
10 another license which is subject to Section 10153.4 until four
11 years after the date of the issuance of the preceding restricted
12 license.

13 6. The license issued to Respondent pursuant to this
14 Decision shall be suspended for one hundred (100) days from the
15 date of issuance of said restricted license; provided, however,
16 if Respondent petitions, one hundred (100) days of said one
17 hundred (100) day suspension (or a portion thereof) shall be
18 stayed upon condition that:

19 (a) Respondent pays a monetary penalty pursuant to
20 Section 10175.2 of the Business and Professions Code at the rate
21 of \$100.00 for each day of the suspension for a total monetary
22 penalty of \$10,000.00.

23 (b) Said payment shall be in the form of a cashier's
24 check or certified check made payable to the Recovery Account of
25 the Real Estate Fund. Said check must be received by the
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1 Department prior to the effective date of the Decision in this
2 matter.

3 (c) If Respondent fails to pay the monetary penalty in
4 accordance with the terms and conditions of the Decision, the
5 Commissioner may, without a hearing, vacate and set aside the
6 stay order, and order the immediate execution of all or any part
7 of the stayed suspension.

8 (d) No final subsequent determination be made, after
9 hearing or upon stipulation, that cause for disciplinary action
10 against Respondent occurred within two (2) years of the effective
11 date of this Decision. Should such a determination be made, the
12 Commissioner may, in his or her discretion, vacate and set aside
13 the stay order, and order the execution of all or any part of the
14 stayed suspension, in which event the Respondent shall not be
15 entitled to any repayment nor credit, prorated or otherwise, for
16 money paid to the Department under the terms of this Decision.

17 (e) If Respondent pays the monetary penalty and if no
18 further cause for disciplinary action against the real estate
19 license of Respondent occurs within two (2) years from the
20 effective date of the Decision, then the stay hereby granted
21 shall become permanent.

22
23 May 26, 2004
24 DATED

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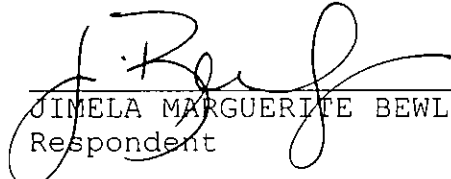
28 JAMES E. BEAVER, COUNSEL
29 DEPARTMENT OF REAL ESTATE

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I have read the Stipulation and Waiver and reviewed it with my attorney, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.


5/17/04
DATED


JIMELA MARGUERITE BEWLEY
Respondent

* * *

I have reviewed the Stipulation and Waiver as to form and content and have advised my client accordingly.

5/21/04
DATED


ROSE POTHIER
Attorney for Respondent

* * *

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

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Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent, 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 Waiver.

This Order is effective immediately.

IT IS SO ORDERED June 2, 2004.



JOHN R. LIBERATOR
Acting Real Estate Commissioner

FILED

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

MAR - 3 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Zini

In the Matter of the Application of

JIMELA MARGUERITE BEWLEY,

}
}

Case No. H-1647 FRESNO

OAH No. N-2004020020

Respondent

**FIRST AMENDED
NOTICE OF HEARING ON APPLICATION**

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE STATE BUILDING, 2550 MARIPOSA MALL, ROOM 1027, FRESNO, CA 93721** on **WEDNESDAY, JUNE 16, 2004**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.

DEPARTMENT OF REAL ESTATE

Dated: MARCH 3, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel (LZ)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB 19 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

In the Matter of the Application of

JIMELA MARGUERITE BEWLEY,

} Case No. H-1647 FRESNO

} OAH No. N-2004020020

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at THE STATE BUILDING, 2550 MARIPOSA MALL, ROOM 1007, FRESNO, CA 93721 on THURSDAY, MARCH 11, 2004, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the 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.

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DEPARTMENT OF REAL ESTATE

Dated: FEBRUARY 19, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel (17)

1 JAMES L. BEAVER, Counsel (SBN 60543).
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
DEC 29 2003

DEPARTMENT OF REAL ESTATE

By Laurel A. Bean

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) No. H-1647 FRESNO
12 JIMELA MARGUERITE BEWLEY,)
13 Respondent.) STATEMENT OF ISSUES

14
15 The Complainant, John Sweeney, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JIMELA MARGUERITE BEWLEY (hereinafter "Respondent"),
18 alleges as follows:

19 I

20 Complainant, John Sweeney, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

24 On or about February 7, 2003, Respondent made
25 application to the Department of Real Estate of the State of
26 California (hereinafter "the Department") for a real estate
27 salesperson license with the knowledge and understanding that,

1 pursuant to the provisions of Section 10153.3 of the Business
2 and Professions Code (hereinafter "Code"), any license issued as
3 a result of said application would be subject to the conditions
4 of Section 10153.4 of the Code.

5 III

6 At no time mentioned herein was Respondent licensed by
7 the Department either as a real estate broker or as a real
8 estate salesperson.

9 IV

10 On or about August 12, 1999, in the Superior Court of
11 the State of California, County of San Luis Obispo, Respondent
12 was convicted of the crime of Non-sufficient Funds, in violation
13 of Penal Code Section 476a(a), a misdemeanor and a crime
14 involving moral turpitude which bear a substantial relationship
15 under Section 2910, Title 10, California Code of Regulations
16 (herein "the Regulations"), to the qualifications, functions or
17 duties of a real estate licensee.

18 V

19 At all times herein mentioned, Wendy Leigh Burgener
20 (herein "Burgener"), a licensed real estate broker, engaged in
21 the business of, acted in the capacity of, advertised, or
22 assumed to act as a real estate broker within the State of
23 California within the meaning of Section 10131(d) of the Code,
24 including the operation and conduct of a mortgage loan brokerage
25 business with the public wherein, on behalf of others, for
26 compensation or in expectation of compensation, Burgener
27 solicited lenders and borrowers for loans secured directly or

1 collaterally by liens on real property, and wherein Burgener
2 arranged, negotiated, processed, and consummated such loans.

3 VI

4 At all times herein mentioned from on or about January
5 15, 2003 through on or about March 30, 2003, Burgener employed
6 and compensated Respondent to perform the acts and conduct the
7 activities described in Paragraph IV, above, and in the course
8 of such employment, acts and activities Respondent, acting as an
9 agent for Burgener, for and in expectation of compensation, for
10 another or others, negotiated and arranged six or more mortgage
11 loans secured by liens on real property.

12 VII

13 In acting as described In Paragraph VI, above,
14 Respondent violated Section 10130 of the Code.

15 VIII

16 The crime of which Respondent was convicted described
17 in Paragraph IV, above, constitutes cause for denial of
18 Respondent's application for a real estate license under
19 Sections 480(a) and 10177(b) of the Code.

20 IX

21 The acts and omissions of Respondent described in
22 Paragraphs IV through VII, above, constitute cause for denial of
23 Respondent's application for a real estate license under Section
24 10130 of the Code in conjunction with Section 10177(d) of the
25 Code.

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WHEREFORE, Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.



JOHN SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 19th day of December, 2003.