

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

4 Telephone: (916) 227-0789

FILED
AUG - 5 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Gier

7 DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11 DENISE DARCELL TURNER,

12
13 Respondent

) No. H- 1667 FRESNO
) N-2004050051

)
) **STIPULATION AND**
) **WAIVER**

14
15 I, DENISE DARCELL TURNER, respondent herein, do hereby affirm that I have applied to the
16 Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have
17 satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee
18 therefor.

19 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
20 filed by the Department of Real Estate on APRIL 1, 2004, in connection with my application for a real
21 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this
22 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove
23 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real
24 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
25 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
26 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
27 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

3 I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and
4 requests that the Real Estate Commissioner in his discretion issue a restricted real estate salesperson license
5 to me under the authority of Section 10156.5 of the Business and Professions Code. I understand that any
6 such restricted license will be issued subject to and be limited by Section 10153.4 of the Business and
7 Professions Code.

8 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing and the
9 opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an
10 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate
11 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a
12 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

13 I further understand that the following conditions, limitations, and restrictions will attach to a
14 restricted license issued by the Department of Real Estate pursuant hereto:

- 15 1. The license shall not confer any property right in the privileges to be exercised including the
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
17 to exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until two years have elapsed from the date of issuance of the restricted license to respondent.
26
27

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

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

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

9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months
11 of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of
12 successful completion, at an accredited institution, of two of the courses listed in Section
13 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real
14 estate finance, or advanced real estate appraisal. If I fail to timely present to the Department
15 satisfactory evidence of successful completion of the two required courses, the restricted license
16 shall be automatically suspended effective eighteen (18) months after the date of its issuance.
17 Said suspension shall not be lifted unless, prior to the expiration of the restricted license, I have
18 submitted the required evidence of course completion and the Commissioner has given written
19 notice to Respondent of the lifting of the suspension.

20 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license
21 under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall
22 not be entitled to the issuance of another license which is subject to Section 10153.4 until four
23 years after the date of the issuance of the preceding restricted license.

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of her actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 7/9-04

4 Dated

5 D. Turner
6 DENISE DARCELL TURNER Respondent
7 ***

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

12 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
13 respondent DENISE DARCELL TURNER if respondent has otherwise fulfilled all of the statutory
14 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in
15 the foregoing Stipulation and Waiver.

16 This Order is effective immediately.

17 IT IS SO ORDERED

18 July 26, 2004

19 John R. Liberator
20 JOHN R. LIBERATOR
21 ACTING REAL ESTATE COMMISSIONER
22
23
24
25
26
27

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

FILED
MAY 10 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

DENISE DARCELL TURNER,

Case No. H-1667 FRESNO

OAH No. N-2004050051

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 OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **MONDAY, JULY 12, 2004**, at the hour of **9:00 A.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.

Dated: MAY 10, 2004

DEPARTMENT OF REAL ESTATE

By David B. Seals
DAVID B. SEALS, Counsel (12)

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

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APR 01 2004

DEPARTMENT OF REAL ESTATE

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 DENISE DARCELL TURNER,)
13 Respondent.)

No. H4667 FR

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 DENISE DARCELL TURNER (hereinafter "Respondent") alleges
18 as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about October 11, 2002 with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the California Business and Professions Code.

26 ///

27 ///

1 II

2 Complainant, John Sweeney, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity.

5 III

6 In response to Question 25 of said application, to wit:
7 "Have you ever been convicted of any violation of law? If yes,
8 complete #27 below.", Respondent answered "YES".

9 IV

10 In response to #27 which asked for a explanation of
11 items 24 - 26 Respondent revealed a misdemeanor conviction on "1-
12 6-96" in Santa Clara Municipal Court for violation of Section
13 23152(b) of the Vehicle Code. There was no mention of any other
14 convictions on Respondent's license application.

15 V

16 On or about June 21, 1990, in the Municipal Court of
17 the State of California, County of Santa Clara, Sunnyvale
18 Facility, Respondent was convicted of violation of California
19 Penal Code Section 484/488 (Petty Theft), a crime involving moral
20 turpitude and/or which is substantially related under Section
21 2910, Title 10, California Code of Regulations to the
22 qualifications, functions or duties of a real estate licensee.

23 VI

24 On or about March 19, 1996, in the Municipal Court of
25 California, Santa Clara County Judicial District, Respondent was
26 convicted of violation of California Vehicle Code Section
27 23152(b) (Driving With a 0.08 or Higher Blood Alcohol), a crime

1 involving moral turpitude and/or which is substantially related
2 under Section 2910 of the Regulations to the qualifications,
3 functions or duties of a real estate licensee.

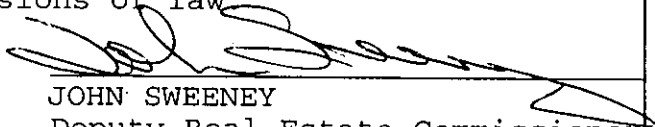
4 VII

5 Respondent's failure to reveal the conviction set forth
6 in Paragraph V above in said application constitutes the attempt
7 to procure a real estate license by fraud, misrepresentation, or
8 deceit, or by making a material misstatement of fact in said
9 application, which failure is cause for denial of Respondent's
10 application for a real estate license under Sections 480(c) and
11 10177(a) of the California Business and Professions Code.

12 VIII

13 Respondent's criminal convictions, as alleged in
14 Paragraphs V and VI above, constitute cause for denial of
15 Respondent's application for a real estate license under Sections
16 480(a) and 10177(b) of the California Business and Professions
17 Code.

18 WHEREFORE, the Complainant prays that the above-
19 entitled matter be set for hearing and, upon proof of the charges
20 contained herein, that the Commissioner refuse to authorize the
21 issuance of, and deny the issuance of, a real estate salesperson
22 license to Respondent, and for such other and further relief as
23 may be proper under other provisions of law

24 
25 JOHN SWEENEY
26 Deputy Real Estate Commissioner

26 Dated at Fresno, California,
27 this 16th day of March, 2004.