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FILED

SEP 24 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of  
IRMA CAPAS,  
Respondent.

No. H-1838 FR

ORDER GRANTING UNRESTRICTED LICENSE

On December 7, 2005, a Decision was rendered herein denying the Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on January 7, 2006, and Respondent has operated as a restricted licensee since that time.

On April 14, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's Petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1                    NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
2 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to  
3 the following understanding and conditions:

4                    1. The license issued pursuant to this order shall be deemed to be the first renewal  
5 of respondent's real estate salesperson license for the purpose of applying the provisions of  
6 Section 10153.4.

7                    2. Within nine (9) months from the date of this order respondent shall:

8                    (a) Submit a completed application and pay the appropriate fee for a real estate  
9 salesperson license, and

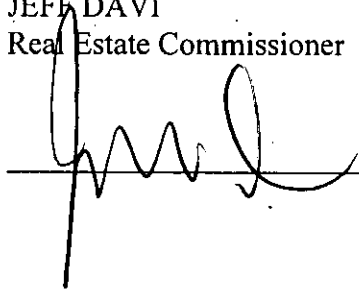
10                    (b) Submit evidence of having taken and successfully completed the courses  
11 specified in subdivisions (a) (1),(2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law  
12 for renewal of a real estate license.

13                    3. Upon renewal of the license issued pursuant to this order, respondent shall  
14 submit evidence of having taken and successfully completed the continuing education  
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate  
16 license.

17                    This Order shall become effective immediately.

18                    IT IS SO ORDERED 9-18-58

19                    JEFF DAVI  
20                    Real Estate Commissioner

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

4 Telephone: (916) 227-0789

**FILED**  
DEC 13 2005

DEPARTMENT OF REAL ESTATE

By Anne Shanon

7 **DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9  
10 *In the Matter of the Application of*

11 IRMA CAPAS

13 Respondent

)  
) No. H- 1838 FR  
)  
)

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

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

18 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent  
19 filed by the Department of Real Estate on October 5, 2005, in connection with my application for a real  
20 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this  
21 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove  
22 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real  
23 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the  
24 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a  
25 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I  
26 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate  
27

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.  
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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 his 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 10/26/05  
4 Dated

*Irma Capas*  
IRMA CAPAS, Respondent

\*\*\*

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

9 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to  
10 respondent IRMA CAPAS if respondent has otherwise fulfilled all of the statutory requirements for  
11 licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing  
12 Stipulation and Waiver.

13 This Order is effective immediately.

14 IT IS SO ORDERED 12-7-05

*Jeff Davi*  
JEFF DAVI  
Real Estate Commissioner

1 TRULY SUGHRUE, Counsel  
State Bar No. 223266  
2 Department of Real Estate  
P.O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0781

FILED

OCT 05 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 IRMA CAPAS, )  
13 Respondent. )

No. H-1838 FR

STATEMENT OF ISSUES

14  
15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against IRMA CAPAS (hereinafter "Respondent"), is informed and  
18 alleges 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 February 16, 2005, 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 Business and Professions Code.

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II

Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "No".

IV

On or about April 22, 1999, in the Superior Court, County of San Luis Obispo, Respondent was convicted of a violation of Section 11483 of the California Welfare and Institutions Code (Welfare Fraud), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The crime of which Respondent was convicted, as alleged above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

VII

Respondent's failure to reveal the conviction set forth above in said application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a



1 real estate license under Sections 480(c) and 10177(a) of the  
2 California Business and Professions Code.

3 WHEREFORE, the Complainant prays that the above-  
4 entitled matter be set for hearing and, upon proof of the charges  
5 contained herein, that the Commissioner refuse to authorize the  
6 issuance of, and deny the issuance of, a real estate salesperson  
7 license to Respondent, and for such other and further relief as  
8 may be proper under other provisions of law.

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10   
11 JOHN W. SWEENEY  
12 Deputy Real Estate Commissioner

12 Dated at Fresno, California,  
13 this 28th day of September, 2005.

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