

FILED

FEB -4 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MARTHA ALICIA URIAS-ISLAS,

Respondent.

No. H-3963 SD

OAH No. 2009060168

STIPULATION AND AGREEMENT

AND

DECISION AFTER REJECTION

The California Department of Real Estate ("Department") filed an Accusation against MARTHA ALICIA URIAS-ISLAS ("respondent") on May 7, 2009. On June 30, 2009, a hearing was held and evidence was received, the record was closed, and the matter was submitted.

On July 29, 2009, the Proposed Decision of the Administrative Law Judge was issued, and determined, among other things, that respondent's real estate salesperson license be revoked, provided that a restricted real estate salesperson license be issued to respondent.

The Commissioner rejected the Proposed Decision of July 29, 2009.

The parties wish to settle this matter without further proceedings.

IT IS HEREBY STIPULATED by and between Respondent MARTHA ALICIA URIAS-ISLAS and the Department, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed by the Department:

1 1. It is understood by the parties that the Real Estate Commissioner may adopt the
2 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
3 sanctions on respondent's real estate license as set forth in the below "Decision and Order". In
4 the event the Commissioner in his discretion does not adopt the Stipulation and Settlement, the
5 Stipulation shall be void and of no effect; the Commissioner will review the transcript and the
6 evidence in the case, and will issue his Decision After Rejection as his Decision in this matter.

7 2. By reason of the foregoing and solely for the purpose of settlement of the
8 Statement of Issues without further administrative proceedings, it is stipulated and agreed the
9 following shall be adopted as the Commissioner's Decision:

10 FACTUAL FINDINGS

11 1. The Accusation against respondent was filed by Joseph Aiu (complainant),
12 while acting in his official capacity as a Deputy Real Estate Commissioner, Department of
13 Real Estate, State of California (department).

14 2. At all times relevant to the allegations contained in the Accusation
15 respondent was, and currently is, licensed by the department as a real estate salesperson.

16 3. On May 15, 2007, in the San Diego County Superior Court, in case number
17 CS206121, respondent was convicted, after entry of her guilty plea, of one count of violating
18 California Penal Code section 496, subdivision (a) (unlawfully receiving, concealing or
19 withholding stolen property, knowing such property to be stolen), a misdemeanor crime,
20 which is substantially related to the qualifications, functions and duties of a licensee.

21 4. The facts and circumstances underlying respondent's conviction were
22 established through respondent's testimony and court documents and are as follows:
23 Between January 1, 2005 and August 31, 2005, respondent "unlawfully received property
24 from the Sweetwater Union H.S. District without obtaining the proper authorizations." (Exh.
25 3.) According to respondent, she was working for the Sweetwater Union High School
26 District at the time. Respondent had worked her way up to the position of School Principal,
27 and was given the "privilege and challenge of going into an inner city school where the
 children had a very low average yearly performance on the No Child Left Behind testing."
 Respondent's main job duty was to bring the school into compliance with "No Child Left
 Behind." Respondent began working long hours, "pretty much 24/7," so she took some

1 school owned property, including computers, home and set up a home office. Respondent
2 testified that she had a "trusted secretary" whom respondent believed had completed the
3 appropriate paper work/authorizations to allow respondent to remove the school property
4 from school premises, and have the property at her home. In fact, no such paperwork had
5 been completed. The school had become embroiled in "politics;" however, the Assistant
6 Superintendent insulated respondent from exposure to the "politics." Eventually, the
7 Assistant Superintendent retired, and respondent became the focus of a "witch hunt."
8 Respondent was "called into the office, immediately placed on administrative leave, and was
9 barred from returning to her office on campus." The allegations against respondent were that
10 she "had computers at the house that she was going to steal." Initially respondent was
11 charged with a felony; however, that was reduced to a misdemeanor as part of the plea
12 negotiation process. Respondent pled guilty to the misdemeanor to avoid the cost and
13 uncertainty of going to trial on the more severe charge of felony receiving stolen property.¹

14 5. As a result of her conviction respondent was placed on three years of
15 summary probation on certain terms and conditions. Respondent complied with all of the
16 terms and conditions of her probation and, on April 25, 2008, only one year after her
17 conviction, respondent's conviction was expunged pursuant to California Penal Code section
18 1203.4.²

19 LEGAL CONCLUSIONS

20 1. Cause for discipline exists pursuant to Business and Professions Code
21 sections 490 and 10177, subdivision (b) because, respondent was convicted of a crime
22 which, pursuant to Title 10, California Code of Regulations, section 2910, is substantially
23 related to the qualifications, functions and duties of a licentiate.

24 ¹ Respondent's testimony, in effect, constituted a denial that she had engaged in criminal conduct; however, in
25 administrative disciplinary proceedings; an applicant or a licensee may not seek to impeach a prior criminal
26 conviction by means of an inquiry into the circumstances surrounding the offense. (*Arneson v. Fox* (1980) 28
27 Cal.3d 440, 449.) On the other hand, she "of course, should be permitted to introduce evidence of extenuating
circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Ibid.*)

² The fact that the criminal proceedings were dismissed so quickly (i.e., after such a brief period of probation)
supports respondent's testimony in mitigation of her criminal conduct. It is apparent that the criminal court did not
believe that public protection warranted respondent remaining on probation.

2. The facts set forth in Findings 4 and 5 indicate that respondent's conviction resulted from extenuating circumstances, without likelihood of reoccurrence. Respondent readily admitted her mistake and was a model probationer. Respondent has no history of any other violations or complaints against her license. In sum, it appears that it would not be adverse to the public interest to allow respondent to remain licensed under appropriate terms and conditions.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, MARTHA ALICIA URIAS-ISLAS,
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 therefore, 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 two years have elapsed from the effective date of this Decision.

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

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

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

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

18 11/24/09

19 DATED

20 
21 TRUDY SUGHRUE, Counsel
22 DEPARTMENT OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement, and its terms are understood by me
25 and are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this
26 Stipulation.

27 11/23/09

 DATED


 MARTHA ALICIA URIAS-ISLAS
 Respondent

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DECISION AND ORDER

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
Commissioner as his Decision and Order.

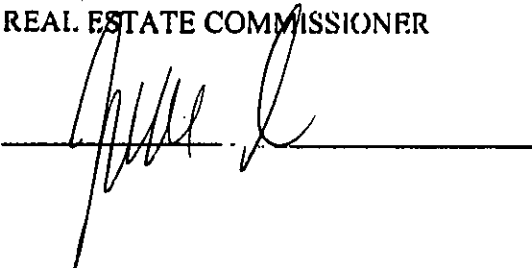
This Decision shall become effective at 12 o'clock noon on

FEB 25 2010

IT IS SO ORDERED

1-21, 2009 2010

JEFF DAVI
REAL ESTATE COMMISSIONER



FILED

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DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

MARTHA ALICIA URIAS-ISLAS,

Respondent.

No. H-3963 SD

OAH No. 2009060168

NOTICE

TO: MARTHA ALICIA URIAS-ISLAS, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 29, 2009, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 29, 2009, 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 including the transcript of the proceedings held on June 30, 2009, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of June 30, 2009, at the Sacramento

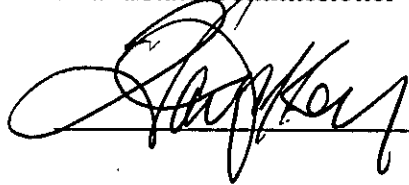
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1 office of the Department of Real Estate unless an extension of the time is granted for good cause
2 shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Sacramento office of the
5 Department of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: 8/31/2009

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8 JEFF DAVI
Real Estate Commissioner

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10 
11

12 By WAYNE S. BELL
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARTHA ALICIA URIAS-ISLAS,

Respondent.

Case No. H-3963 SD

OAH No. 2009060168

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, at San Diego, California on June 30, 2009.

Department of Real Estate Counsel Truly Sughrue represented complainant.

Martha A. Urias-Islas (respondent) represented herself.

Oral and documentary evidence was received and the matter was submitted on June 30, 2009.

FACTUAL FINDINGS

1. The Accusation against respondent was filed by Joseph Aiu (complainant), while acting in his official capacity as a Deputy Real Estate Commissioner, Department of Real Estate, State of California (department).
2. At all times relevant to the allegations contained in the Accusation respondent was, and currently is, licensed by the department as a real estate salesperson.
3. On May 15, 2007, in the San Diego County Superior Court, in case number CS206121, respondent was convicted, after entry of her guilty plea, of one count of violating California Penal Code section 496, subdivision (a) (unlawfully receiving, concealing or withholding stolen property, knowing such property to be stolen), a misdemeanor crime, which is substantially related to the qualifications, functions and duties of a licentiate.
4. The facts and circumstances underlying respondent's conviction were established through respondent's testimony and court documents and are as follows:

Between January 1, 2005 and August 31, 2005, respondent "unlawfully received property from the Sweetwater Union H.S. District without obtaining the proper authorizations." (Exh. 3.) According to respondent, she was working for the Sweetwater Union High School District at the time. Respondent had worked her way up to the position of School Principal, and was given the "privilege and challenge of going into an inner city school where the children had a very low average yearly performance on the No Child Left Behind testing." Respondent's main job duty was to bring the school into compliance with "No Child Left Behind." Respondent began working long hours, "pretty much 24/7," so she took some school owned property, including computers, home and set up a home office. Respondent testified that she had a "trusted secretary" whom respondent believed had completed the appropriate paper work/authorizations to allow respondent to remove the school property from school premises, and have the property at her home. In fact, no such paperwork had been completed. The school had become embroiled in "politics;" however, the Assistant Superintendent insulated respondent from exposure to the "politics." Eventually, the Assistant Superintendent retired, and respondent became the focus of a "witch hunt." Respondent was "called into the office, immediately placed on administrative leave, and was barred from returning to her office on campus." The allegations against respondent were that she "had computers at the house that she was going to steal." Initially respondent was charged with a felony; however, that was reduced to a misdemeanor as part of the plea negotiation process. Respondent pled guilty to the misdemeanor to avoid the cost and uncertainty of going to trial on the more severe charge of felony receiving stolen property.¹

5. As a result of her conviction respondent was placed on three years of summary probation on certain terms and conditions. Respondent complied with all of the terms and conditions of her probation and, on April 25, 2008, only one year after her conviction, respondent's conviction was expunged pursuant to California Penal Code section 1203.4.²

LEGAL CONCLUSIONS

1. Cause for discipline exists pursuant to Business and Professions Code sections 490 and 10177, subdivision (b) because, respondent was convicted of a crime which, pursuant to Title 10, California Code of Regulations, section 2910, is substantially related to the qualifications, functions and duties of a licentiate.

2. The facts set forth in Findings 4 and 5 indicate that respondent's conviction resulted from extenuating circumstances, without likelihood of reoccurrence. Respondent

¹ Respondent's testimony, in effect, constituted a denial that she had engaged in criminal conduct; however, in administrative disciplinary proceedings, an applicant or a licensee may not seek to impeach a prior criminal conviction by means of an inquiry into the circumstances surrounding the offense. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) On the other hand, she "of course, should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Ibid.*)

² The fact that the criminal proceedings were dismissed so quickly (i.e., after such a brief period of probation) supports respondent's testimony in mitigation of her criminal conduct. It is apparent that the criminal court did not believe that public protection warranted respondent remaining on probation.

readily admitted her mistake and was a model probationer. Respondent has no history of any other violations or complaints against her license. In sum, it appears that it would not be adverse to the public interest to allow respondent to remain licensed under appropriate terms and conditions.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Martha Alicia Urias-Islas, 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 therefore, 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 two years have elapsed from the effective date of this Decision.
4. 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

not adopted

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.

DATED: July 29, 2009

Roy W. Hewitt

ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

MAY - 7 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 MARTHA ALICIA URIAS-ISLAS,

14 Respondent.

No. H-3963 SD

ACCUSATION

15
16 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against MARTHA ALICIA URIAS-ISLAS
18 (hereinafter "Respondent"), is informed and alleges as follows:

19 1

20 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the
21 State of California, makes this Accusation in his official capacity.

22 2

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

26 ///

27 ///

On or about May 15, 2007, in the Superior Court, County of San Diego, Respondent was convicted of a violation of Section 496(a) of the California Penal Code (Receiving Known Stolen Property), a misdemeanor involving moral turpitude and crime 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.

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.

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 all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under the provisions of law.


JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 5 day of May, 2009