BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

FILED
FEB 4 2013
DEPARTMENT OF REAL ESTATE
By L. Frost

In the Matter of the Accusation of	)	
	)	NO. H-4331 SD
MARJORIE ELLWOOD SANTISTEVAN,	)	
	)	OAH NO. 2012050667
Respondent.	)	
	)	

DECISION

The Proposed Decision dated December 24, 2012, 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, but the right to a restricted license is granted to Respondent.

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 FEB 25 2013.

IT IS SO ORDERED 2/1/13

Real Estate Commissioner

By AWET P. KIDANE
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against: MARJORIE ELLWOOD SANTISTEVAN, Respondent.	File No. H 4331 SD OAH No. 2012050667

PROPOSED DECISION

Beth Faber Jacobs, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 2 and 27, 2012, in San Diego, California.

John Van Driel, Assistant Chief Counsel, Department of Real Estate, represented complainant Veronica Kilpatrick, Deputy Estate Real Commissioner, Department of Real Estate, State of California.

Mary E. Work, Attorney at Law, represented respondent, Marjorie Ellwood Santistevan (also known as Marjorie Ellwood Jordan), who was present throughout the hearing.

The matter was submitted on November 27, 2012.

SUMMARY

In 2009, respondent took a lithograph from her ex-husband's home without his knowledge or permission. As a result, on July 7, 2010, respondent was convicted of the crime of receiving stolen property. The conviction is substantially related to the duties, functions or qualifications of a licensee and provides a basis for imposing discipline on respondent's real estate salesperson license. The circumstances surrounding the conviction, however, demonstrate that respondent had an isolated lapse of judgment related to her acrimonious divorce and dispute with her ex-husband regarding finances and the care of one of their children. Since her conviction, respondent has shown significant rehabilitation. She recognizes her conduct was wrong and demonstrated sincere remorse. Her conviction has been expunged. She is involved with the community and in helping others. She is a dedicated parent and is respected in the real estate field. While discipline is warranted, the public will be protected by permitting respondent to hold a restricted license.

FACTUAL FINDINGS

Jurisdictional Matters

1. On April 25, 2012, complainant Veronica Kilpatrick, a Deputy Estate Real Commissioner, signed the Accusation in her official capacity. The Accusation and other required documents were served on Marjorie Ellwood Santistevan (respondent). Respondent timely filed a Notice of Defense.

2. The record in the administrative hearing was opened on November 2, 2012. Jurisdictional documents were presented. Sworn testimony and documentary evidence was received. On November 27, 2012, further proceedings were held telephonically, sworn testimony was received and closing arguments were given. The record was closed and the matter was submitted.

License History

3. On June 2, 2007, the Department of Real Estate (department) issued a conditional salesperson license to respondent. The license expired on December 2, 2008. On January 16, 2009, respondent's real estate salesperson was reinstated. Respondent's real estate salesperson license expires June 1, 2015, unless suspended or revoked.

4. Respondent has no history of prior discipline imposed on her real estate license.

Respondent's Conviction

5. On July 7, 2010, in *People v. Marjorie Ellwood Jordan (aka Marjorie Ellwood Santistevan),* San Diego County Superior Court, Case No. CD 225159, respondent pled guilty and was convicted of violating Penal Code section 496, subdivision (a), receiving stolen property, a misdemeanor.

6. Based on the conviction, the court placed respondent on three years summary probation. The court ordered respondent to perform 160 hours of volunteer work, to pay fines and penalties, to comply with a protective order that she stay away from her ex-husband, and to comply with other standard terms and conditions of probation.

The Circumstances Underlying the Conviction

7. Respondent was married to George Jordan for 14 years and they had four children together. Prior to their marriage, respondent purchased a John Baldessari lithograph of a man and woman embracing. She gave it to Mr. Jordan as a wedding gift. Respondent and Mr. Jordan separated in 2005 and divorced in 2007, but the divorce was bitter and many financial issues remained for several years. In 2009, respondent felt that Mr. Jordan owed her significant amounts of money, not only as part of the marital settlement but because one

of their daughters had serious issues that required expensive treatment and Mr. Jordan refused to acknowledge the issues or contribute to the expenses incurred.

8. In 2009, the lithograph was in Mr. Jordan's possession and hanging on a wall in his home. In late December, 2009, Mr. Jordan was out of town to get remarried. On December 26, 2009, when Mr. Jordan had already left town for his wedding, respondent drove their teenaged daughter C., to Mr. Jordan's home to get some of C.'s clothes, as C. was flying to attend her father's wedding. While C. was packing and without C.'s knowledge, respondent entered Mr. Jordan's home. Respondent removed the Baldessari lithograph from the house and put it in her car. She did not have Mr. Jordan's permission to enter his home or remove the artwork.

9. When Mr. Jordan returned from his honeymoon, he called respondent and asked if she had the lithograph. She admitted she had it but claimed it was hers. She would not return it. Mr. Jordan called the police. Police went to respondent's home and asked about the artwork. Respondent acknowledged she had the Baldessari and showed the officer that it was hanging on her master bedroom wall. Although respondent initially told the officer it was rightfully hers and had been handed to her by Mr. Jordan as part of the marital settlement agreement, she later admitted she took the lithograph from Mr. Jordan's house without his knowledge or permission because he owed her over $120,000.

10. Respondent was arrested. As part of a plea agreement, respondent pled guilty to a misdemeanor charge of receiving stolen property. A restraining order was issued ordering respondent to stay away from her ex-husband. The lithograph was returned to Mr. Jordan.

Respondent's Background

11. Respondent grew up in Winnetka, Illinois. She is 48 years old. After graduating high school, respondent attended the University of Iowa. She transferred to Loyola University of Chicago where she majored in English and minored in art history. She received her bachelor's degree. Respondent became a real estate agent in Illinois in 1989 and sold residential real estate there for several years. For a time, respondent also had an art gallery with her mother where they sold art and antiques.

12. Respondent moved to California in 1997. In about 2006, respondent started working as an assistant at a Coldwell Banker office in southern California. In 2007, she became licensed by the department as a real estate salesperson. Sometime thereafter, she changed jobs and began working as a real estate agent at Prudential California Realty. At Prudential, respondent began working as a team with two very experienced real estate agents. They still work as a team and focus on a high-end luxury property market. Their listings from range from 2 to 8 million dollars.

13. Respondent remarried in mid 2009. She has three children and one step-child. Their ages range from 11 through 20.

Respondent's Testimony about the Conviction, Mitigation and Rehabilitation

14. One of respondent's children, T., had many struggles starting in the second grade. The child was diagnosed as bi-polar and as having ADD. By middle school, when respondent and Mr. Jordan had separated, the child developed an eating disorder. By the time T. was in high school, she was flunking out. She was using drugs. According to respondent, the child did not want to live with her mother because her mother had rules and her father did not. Respondent tried to enlist her ex-husband's help in getting treatment for the child but he disagreed that there was a problem. Respondent placed T. in a residential treatment program out of state. It was expensive. Respondent's ex-husband refused to help defray the costs.

15. Respondent became angry at her ex-husband; she felt he was abandoning the child both emotionally and financially. As respondent explained it, her anger played a role in her removing the artwork. She knew it was not a valid excuse. She said: "I believe in doing the right thing. I failed. I am ashamed and mortified."

16. Respondent did not tell her co-workers about the conviction.

17. Following her conviction, respondent performed 160 hours volunteer work as part of her criminal probation. She worked at Casa De Empara, a shelter for children in Oceanside. She collected donated groceries. She also worked at the Helen Woodward Animal Shelter. She volunteered at the East County Posse, an organization of builders who build for those in need.

18. Respondent paid all the fines and restitution owed. Probation was terminated early on May 16, 2011. On October 16, 2012, respondent's conviction was dismissed under Penal Code section 1203.4.

19. Respondent's daughter T. is now doing much better. They have a close relationship. As a result of the struggles respondent faced with her daughter, respondent started a supportive mother's group. She arranges for speakers such as therapists to speak at their lunches. The group provides resources for mothers to get help in addressing challenging issues related to their teens.

20. Throughout the hearing, respondent acknowledged her conviction and accepted responsibility for it. She testified that her actions made her ashamed and embarrassed, which was why she had not told her co-workers about the conviction. She said it was "not like me" to react the way she did. She called her conduct "so wrong." She was "mortified" that she "behaved so badly." "It was terrible behavior on my part," she said. She stated that she regrets her mistake, that she is "so sorry," and that she was disappointed in herself for her inexcusable conduct. Because of her children and desire to be a role model to them, she "guarantees" that nothing like this would ever happen again.

Additional Evidence of Rehabilitation

TESTIMONY

21. Herbert Josepher testified and wrote a letter on respondent's behalf. He has been licensed as a real estate broker since 1979 and has been the branch manager for the Rancho Santa Fe Prudential California Realty (Prudential) office for ten years. He belongs to numerous professional organizations. As branch manager, he oversees 11 office locations and supervises 230 real estate agents.

Mr. Josepher has known respondent since she started at the Rancho Santa Fe office in 2009. She was recruited because of her professional and productive reputation in the community. Mr. Josepher reviewed 20 of respondent's transactions, including all the paperwork. He found that she followed procedures meticulously. He has never heard a complaint from respondent's clients, her colleagues, or from agents on the other side.

Dean Stoller, the Prudential Broker of Record, told Mr. Josepher about the accusation and requested that Mr. Josepher speak on her behalf. Mr. Josepher then read the accusation filed against respondent. He was surprised when he read about the conviction. Nonetheless, he has never heard of any issues regarding respondent's character. Prudential would still employ her if she had a restricted license. He would be more than willing to supervise her.

22. Gwyn Rice testified and submitted a letter on behalf of respondent. She has been licensed by the department for over 20 years and has no history of license discipline. She met respondent three or four years ago when they worked together at Coldwell Banker. Ms. Rice and realtor Lisa Stennes worked as a team at Prudential, and they hired respondent to be part of their team. Having an excellent professional reputation and maintaining high ethical standards is important to Ms. Rice. She feels that respondent "mirrors" those standards. She trusts respondent to go in and out of clients' homes, which are often worth millions of dollars, and considers respondent an "intimate part" of her team's success.

Ms. Rice did not learn about the conviction until April or May, 2012, and she did not read the accusation until the day before she testified. She considered it an "unfortunate situation" and could see how certain personal situations could bring out the "worst" in a person. In her letter, Ms. Rice characterized respondent as "a true consummate professional." She testified that has never had a reason to question respondent's integrity and intends to continue her personal and professional association with respondent.

23. Jill Levine also testified on behalf of respondent. She is employed as a paralegal for the Social Security Administration where she serves as a hearing monitor, takes notes and acts as a clerk in the courtroom.

Ms. Levine has known respondent for 15 years. Respondent's daughter T. and Ms. Levine's daughter were best friends growing up. Respondent and Ms. Levine were co-leaders for their daughters' Girl Scout troop. She saw the extensive efforts respondent made to get care and treatment for T. when she needed it. Though their daughters are no longer close friends, Ms. Levine and respondent have remained close. They are in a book club together. They play tennis.

Ms. Levine has not used respondent as a real estate agent because she has been in the same house for 17 years. She would, however, be very comfortable using her as an agent. She learned about the conviction when it happened, but she felt respondent had been pushed with a bitter divorce and an ex-husband who put up constant barriers to helping their daughter. Ms. Levine considers respondent a "wonderful person."

LETTERS OF SUPPORT

24. Respondent's daughter T., aged 20, wrote on behalf of her mother. She chronicled her many challenges and how she is succeeding now "100% because of my mother." Consistent with respondent's testimony, she wrote about the efforts her mother went to so that she could have residential treatment, even though her father thought "it was just a waste of his money and that I was just a bad kid." T. is now in college, has a 3.4 GPA, and plans to become a teacher. T. acknowledged that she was very hard on her mother at times, as she often takes out her anger and emotions on her mother. T. added: "Despite all of this, she has always been there for me and I know she always will be."

25. Lisa Stennes submitted a letter, dated August 27, 2102, in respondent's support. Ms. Stennes is a real estate agent for Prudential and is pleased to have respondent on her team. She praised respondent's "easy-going nature, thoughtfulness, integrity and wisdom" as well as her "professionalism." Ms. Stennes' letter reflects that she knew respondent had an accusation pending against her and that there were issues involving her ex-husband, but it does not appear that Ms. Stennes was aware of the conviction when she wrote the letter.

26. David M. Cabot, President and CEO of Prudential California Realty and Victoria Boynton, Associate General Counsel for Prudential California wrote separate letters on behalf of respondent. Essentially, they stated that they did not know respondent well, but know her follow agents Lisa Stennes and Gwyn Rice very well, and that Ms. Stennes and Ms. Rice have years of experience in working in the high end luxury market and are highly respected. Mr. Cabot indicated that on the strength of their request and faith in respondent, he "gladly agreed" to permit respondent to continue her employment with the company through the department's administrative process. Ms. Boynton indicated that respondent was forthcoming with the legal department about the issues in the accusation and that the "support demonstrated by the other agents clearly attests to [respondent's] moral character."

Evaluation

27. Respondent was convicted of receiving stolen property, a substantially related conviction. Although she intially told the police that the picture belonged to her, and at one point told the department that she felt the lithograph was hers, she never disputed her conviction. Indeed, she cannot. Her conviction is conclusive proof that she knowingly received stolen property. (*Arneson v. Fox* (1980) 27 Cal.3d 440, 452.)

As *Arneson* permits, respondent was allowed to introduce "evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson, supra*, at p. 449.) The circumstances were relevant. While respondent's actions showed extremely poor judgment, her misconduct appears to be an isolated event in response to acrimonious financial and parenting disputes with her ex-husband. Respondent acknowledged that her conduct was not justified, regardless of her rationale. Other than this one out-of-character incident, respondent has been a law-abiding, community and family-life oriented professional. She showed significant remorse during the hearing, reflecing that she was "ashamed and mortified" by her wrongdoing. She apologized for the harm it caused everyone involved. Her conviction has been expunged. It would not be against the public interest to permit respondent to hold a restricted license.

LEGAL CONCLUSIONS

Purpose of Disciplinary Action

1. The object of an administrative proceeding aimed at revoking a real estate license is to protect the public. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

Burden and Standard of Proof

2. The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a professional license is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Under this standard, guilt must be established to a reasonable certainty. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

Applicable Statutes and Regulations

3. Under Business and Professions Code section 490, subdivision (a), the department may "suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

4. Business and Professions Code section 10177 also identifies bases for which the commissioner may discipline a license. It provides in part:

> "The commissioner may suspend or revoke the issuance of a real estate licensee,... who has done any of the following . . .
>
> . . .
>
> (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee...irrespective of an order granting probation following that conviction, suspending the imposition

> of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

Substantial Relationship

5. Business and Professions Code section 481 requires each licensing agency to develop criteria to aid it to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates. (*Donaldson v. Department of Real Estate* (2005) 134 Cal.App.4th 948, 955-956.)

6. California Code of Regulations, title 10, section 2910 sets forth the department's substantial relationship criteria. It provides in part:

> (a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:
>
> . . .
>
> (8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.
>
> (b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.
>
> (c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.

7. Real estate agents regularly enter the homes of other people. They must be honest and trustworthy at all times. Respondent's conviction for receiving stolen property is substantially related to the qualifications, functions or duties of a real estate agent.

Cause Exists to Revoke or Suspend Respondent's License

8. Cause was established to suspend or revoke respondent's real estate salesperson license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), on the bases that respondent has been convicted of a crime substantially related to the qualifications, functions, and duties of a real estate licensee.

Rehabilitation Criteria

9. The department has developed criteria for evaluating the rehabilitation of a licensee when considering the suspension or revocation of a license who has been convicted of a substantially related crime. Under California Code of Regulations, title 10, section 2912, these criteria include:

> (a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.)
>
> (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
>
> (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
>
> (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
>
> (e) Successful completion or early discharge from probation or parole.
>
> (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
>
> (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

(h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.

(i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments..

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

Respondent has Demonstrated Sufficient Rehabilitation

10. Taking these criteria into consideration, the evidence shows that respondent has demonstrated significant rehabilitation. More than two years have passed from respondent's sole conviction. The lithograph was returned to Mr. Jordan and respondent

paid court ordered restitution. Respondent successfully completed probation and was discharged early. Her conviction was expunged. Neither drugs nor alcohol were involved. Respondent remarried in 2009, has a stable family life, and supports her children through her work as a real estate licensee. Respondent is involved in the community through her mother's resource and support group and has engaged in other volunteer activities. She conveyed significant remorse for her actions. Friends and co-workers testified on her behalf about her devotion to her children and profession as well as her integrity and ethics. She has had no other conviction or violation of law.

11. Rehabilitation is a state of mind. The law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) Respondent's testimony and supporting evidence reflects introspection and an appreciation that what she did was wrong. Respondent has demonstrated sufficient rehabilitation to warrant the department's trust that this kind of behavior will likely never happen again. The public will be adequately protected by permitting respondent to hold a restricted license with standard terms and conditions.

Costs of Enforcement

12. The accusation sought an order directing the respondent to pay the department's reasonable costs of investigation and enforcement under Business and Professions Code section 10106. Section 10106 provides in part:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the department, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
>
> . . . . [¶]
>
> (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the commissioner or the commissioner's designated representative, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case . . .
>
> (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the commissioner to increase the cost award. The commissioner may reduce or eliminate the cost award, or remand to the administrative law judge where the

> proposed decision fails to make a finding on costs requested pursuant to subdivision (a) . . . .

13. The Office of Administrative Hearings has enacted regulations for use when evaluating an agency's cost request. California Code of Regulations, title 1, section 1042, provides in part:

> (a) An agency shall allege in its pleading any request for costs, citing the applicable cost recovery statute or regulation.
>
> (b) Except as otherwise provided by law, proof of costs at the Hearing may be made by Declarations that contain specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs, which shall be presented as follows:
>
> (1) For services provided by a regular agency employee, the Declaration may be executed by the agency or its designee and shall describe the general tasks performed, the time spent on each task and the method of calculating the cost. For other costs, the bill, invoice or similar supporting document shall be attached to the Declaration.

14. In this case, Jason Parson, Supervising Special Investigator for the Department of Real Estate, prepared a "Statement of Costs" stating that the actual costs of investigation and enforcement totaled $484.20. The department's Assistant Chief Counsel prepared a "Statement of Costs" stating that actual legal costs of investigation and enforcement totaled $704.65. The costs requested totaled $1,188.85. However, neither document is a certified copy nor is either a Declaration prepared under penalty of perjury. Consequently, they do not satisfy the requirements of Business and Professions Code section 10106 or the applicable regulation. Costs are therefore not awarded in this matter.

ORDER

All licenses and licensing rights of Respondent Marjorie Ellwood Santistevan 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 for it 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 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.

DATED: December 24, 2012

Beth Faber Jacobs

BETH FABER JACOBS
Administrative Law Judge
Office of Administrative Hearings