

FILED

February 6, 2014

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

* * *

By 

In the Matter of the Accusation of

No. H-5905 SAC

MICHELLE SYLVIA DEBACH and
PLACER PROPERTY MANAGEMENT, INC.,

OAH No. 2012110567

Respondents.

DECISION

The Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings dated January 8, 2014, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes the real estate license and/or license rights; however, the right to a restricted corporate real estate license is granted to PLACER PROPERTY MANAGEMENT, INC.

The Decision suspends or revokes the real estate license and/or license rights; however, the right to a restricted broker real estate license is granted to MICHELLE SYLVIA DEBACH.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty 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 26 2014.

IT IS SO ORDERED FEB 04 2014.

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHELLE SYLVIA DEBACH and
PLACER PROPERTY MANAGEMENT,
INC.,

Case No. H-5905 SAC

OAH No. 2012110567

Respondent.

PROPOSED DECISION

This matter was heard before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, on November 19, 2013, in Sacramento, California.

Truly Sughrue, Counsel, Bureau of Real Estate (Bureau), represented Tricia D. Sommers, a Deputy Real Estate Commissioner, State of California (Complainant).

Michelle S. Debach (respondent), as the designated officer-broker of Placer Property Management, Inc. (respondent PPM or PPMI), was present and represented respondents' interests.

The case was submitted for decision on November 19, 2013.

SUMMARY

From January 2012, through March 2012, the Bureau conducted an audit of respondents' accounting and record keeping practices during the 12 months of 2011, to determine whether their property management and trust fund activities were conducted in accordance with the Real Estate Law. The Bureau discovered that PPMI was operating without a corporate real estate license, the trust fund account balance was below the aggregate liability of the trust without consent of owners, and an invalid signatory was named on the trust account. Respondent cooperated with the Bureau to immediately bring PPMI into compliance and to educate herself on the law governing her deficiencies. The Bureau filed an accusation alleging trust fund violations and cause for disciplinary action. Though no malfeasance or bad faith was

established, the violations are supported by sufficient evidence and therefore, support cause for discipline of respondents' licenses and licensing rights.

FACTUAL FINDINGS

1. Complainant made and filed this Accusation in her official capacity on November 5, 2012.

2. The Bureau issued respondent an original conditional salesperson license on March 17, 1990, and a salesperson license on March 16, 1994. Her license was activated in the employ of Sacramento Delta Property Management on March 27, 1998, John T. White on March 15, 2002, and Novella J. Garcia on July 8, 2004. The Bureau issued respondent an original broker license on December 16, 2009 (Lic. No. B/01068282), with a main office at 514 Vernon Street, Roseville. Respondent is licensed as an officer of PPMI, (Lic. No. C/01908842) from January 26, 2012 to January 25, 2016.

3. The Bureau issued corporate real estate broker license number C/01908842 to PPMI, on January 26, 2012. PPMI's corporate broker license will expire on January 25, 2016, unless renewed. The main office address is 514 Vernon Street, Roseville.

Unlicensed Activity by PPMI

4. Debbi Burnett has been employed by the Bureau as a special investigator for four years. She was assigned to investigate PPMI's property management activity after the Bureau learned that PPMI was conducting real estate activity without a license. Bureau records showed no corporate affiliation between PPMI and respondent.

5. On or about September 20, 2011, Ms. Burnett consulted the Granite Bay phone directory (Yellow pages) and found a listing for "Placer Property Management Inc." advertising property management services for single family homes, duplexes, and condominiums. Ms. Burnet then consulted the Secretary of State filings and learned that PPMI operated from the same address as respondent. On September 20, 2011, Ms. Burnett conducted an internet search and downloaded a printout for PPMI. The site advertised full property management services including marketing, tenant screening, and accounting. The website referenced respondent's broker license number (No. 01068282).

6. Prior to January 2012, PPMI was not licensed with the Bureau as a property management corporation. Respondent as the designated owner-broker of PPMI, conducted property management activity as PPMI. It is unlawful for any

person to engage in the business of a real estate broker in this state without first obtaining a real estate license from the Bureau. (Bus. & Prof. Code, § 10130.)

7. Respondent provided a declaration to Ms. Burnett, signed November 22, 2011, explaining the reason she had not obtained a corporate broker license for PPMI. In her declaration, she shared that she has worked in the property management field for over 20 years. She began PPMI as an agent under a broker named Novella Garcia. In January 2007, PPMI changed from a sole proprietorship with respondent as manager/owner, to a corporation with respondent as manager/chief executive officer. Respondent stated that other than becoming a broker, she did not know that she needed to do anything else. She obtained her broker license in December 2009, around the time Novella Garcia dissolved her real estate office. Respondent believed that she was in full compliance and was surprised when she was contacted by Ms. Burnett for operating PPMI operating without a corporate broker license.

8. After learning the steps she needed to take, respondent went to the Secretary of State's Office and requested a Certificate of Status, and submitted it to the Department with the corporate license application and \$300 license application fee. Respondent wrote in her declaration: "I will do whatever is required by the Department of Real Estate to comply with the rules for corporation. It has never been my intentions [*sic*] not to comply. I just didn't know about the corporation license."

Respondent filed the corporate license application with the Bureau on November 30, 2011. The attached Certificate of Status from the Secretary of State's Office indicated that PPMI was formed on January 5, 2007, as a domestic corporation, and was in good standing. Respondent, as CEO, filed a Statement of Information with the Secretary of State on January 20, 2012. The Bureau processed and approved PPMI's application for a corporate broker license on January 26, 2012.

9. Upon learning of the violation, respondent acted immediately to secure a corporate broker license for PPMI. She was cooperative and diligent in obtaining the necessary documents from the Secretary of State and filing the corporate license application with the Bureau. Her corrective actions support her explanation that she was not aware of the corporate broker licensing requirements, and had she known, she would have taken the necessary steps. There is no evidence of malfeasance or misconduct in her actions or omissions.

Bureau Audit

10. Rana Tarazi has been employed by the Bureau as a general auditor for over seven years. Her duties include conducting audits of real estate brokerages engaged in property management, mortgage lending, and property sales, to determine how they handle trust funds and comply with the law. From January 19, 2012, through March 6, 2012, she conducted an audit of PPMI's property management activity for the 12 month period of January 1 to December 31, 2011. The auditor

interviewed respondent, obtained and examined records on a sample basis, performed account analysis, prepared an audit report dated March 14, 2012, and testified at hearing.

11. During the 2011 audit period, PPMI was involved in property management activities for 259 properties and 212 owners. Respondent, as broker, employed one real estate salesperson, Ruth F. Gurnee. Property management activities included collecting rents, advertising, screening tenants, and arranging for reasonable repairs. Respondent charged a monthly management fee of \$50 to \$95 out of collected rents.

12. Trust funds consist of money collected by a broker on behalf of others related to real estate transactions. These funds do not belong to the broker. Respondent maintained two property management trust accounts at Bank of Sacramento. The trust accounts were entitled: Placer Property Management Inc. Trust Account (Trust #1, Acct. No. 0100014620), and Placer Property Management Inc. Trust Account Acquisition (Trust #2, Acct. No. 0400002697). Trust funds received by respondent for property management activities were deposited into these two accounts. Deposits consisted of security deposits and rental receipts. Disbursements consisted of management fees, mortgage payments, maintenance costs, and proceeds to property owners or principals.

Invalid Trust Account Signatory

13. Respondent provided Ms. Tarazi with the bank signature cards for Trust #1 and Trust #2. Trust #1 was opened on November 30, 2004. Trust #2 was opened on May 20, 2011. Signatories on the trust accounts were respondent, as president, secretary, and treasurer of PPMI; and Marla Fontana, as accountant. Ms. Tarazi confirmed that the Bureau had no record of licensure for Ms. Fontana, that Ms. Fontana was not affiliated with respondent's broker license through the Bureau, and that Ms. Fontana did not have fidelity bond coverage. When informed of the violation, respondent quickly moved to correct the problem by removing Ms. Fontana from the signature card and providing proof to Ms. Tarazi. The revised signature card, signed by respondent on January 20, 2012, listed only respondent as an authorized signatory.

14. Withdrawals from a trust must be by a broker, a salesperson authorized in writing by the broker, or by an unlicensed individual with a fidelity bond covering the maximum account balance. (Cal. Code Regs., tit. 10, §2834.) Because Ms. Fontana was unlicensed and respondent could not produce a bond on behalf of Ms. Fontana, she was in violation of the Real Estate Law during the audit period.

Bank Account Reconciliation

15. On December 31, 2011, Ms. Tarazi conducted a bank account reconciliation on Trust #1 and Trust #2. During the reconciliation of accounts, Ms. Tarazi examined bank statements and records to ensure that the adjusted bank balance matched the balance in the separate beneficiary records or accountability. An "accountability" is determined by adding the sum of all balances of separate records for each beneficiary. Ms. Tarazi prepared an "adjusted bank balance" as of December 31, 2011, by examining all outstanding checks and those in transit and reconciling these transactions to the bank statement balance.

16. Ms. Tarazi did not find any shortage in Trust #2. However, for Trust #1, she arrived at an adjusted bank balance of \$281,540.46, and an accountability of \$285,006.22. Her reconciliation of these two balances yielded a Trust #1 shortage of \$3,465.76. Ms. Tarazi determined that the trust account shortage was caused by three things: 1) a negative balance of \$1,709.32, 2) a duplicate ACH payment of \$1,225 to a single property owner, and 3) an unidentified shortage of \$531.44.

17. The negative balance indicated that disbursements on behalf of owners went over the account balance needed to cover the amount due to all owners. The negative balance was allocated back to seven properties with known deficits. Respondent cured the negative balances by either depositing money or obtaining funds from the owner. She provided proof of correction via deposit slips and cancelled checks to show that each negative balance was restored.

18. Respondent used the ACH (Automated Clearing House) system to electronically transfer funds to owners in lieu of writing them checks. Ms. Tarazi found during the audit that the same payment due to one property owner was transferred twice in error. Property owner K.R. received a payment of \$1,225 on both December 8 and 9, 2011. Upon learning of the error, respondent immediately, on January 19, 2012, corrected the over payment to K.R.

19. Respondent cured the remaining unidentified trust account shortage of \$531.44, by depositing a personal check into the trust account. Respondent provided proof of correction to Ms. Tarazi in the form of the deposit slip and canceled check.

20. Ms. Tarazi testified that the Real Estate Law requires the broker to obtain written consent from the beneficiary (property owner) to reduce the balance of the trust account below the aggregate trust fund liability. Each beneficiary in the account must consent to a trust fund shortage. (Cal. Code Regs., tit. 10, § 2832.1.) Respondent could not produce documentation of consent from each beneficiary. As such, the shortage in Trust #1 constituted a violation of the Real Estate Law.

Mitigation/Rehabilitation

21. Respondent testified at hearing about her real estate background and the allegations. Respondent began in real estate as a bookkeeper for a property management company, and then worked in the capacity of a maintenance coordinator, in the field, looking at houses, and handling repairs. When her employing property management company was sold to Sacramento Delta Property Management she was hired to manage properties under her own real estate license.

22. In July 2004, respondent opened her own property management company, PPMI, under Novella Garcia's broker license. In 2007, on advice of her accountant, respondent incorporated PPMI for tax advantages. Respondent obtained her broker license in December 2009, one month before Ms. Garcia retired. Respondent stated that she received no complaints and there were no known problems until Ms. Burnett contacted her in November 2011. Respondent acted immediately to obtain and file the documents necessary to bring PPMI into compliance with the Real Estate Law.

23. After receiving notice of the audit in December 2011, respondent made an appointment for Ms. Tarazi to come to PPMI. Respondent and her staff collected the statements requested by Ms. Tarazi and sought to cooperate fully. During the audit, respondent learned there was a problem with Ms. Fontana being a signatory on the trust account. Respondent stated that Ms. Fontana had been a banker for years and was an "excellent bookkeeper." She felt Ms. Fontana was "very trustworthy." However, as soon as she learned of the problem, she removed Ms. Fontana with from the account. Respondent did not know that she needed to have a fidelity bond for a non-licensed individual to be a signatory on a trust account.

24. Respondent explained how her processes created the identified shortage in Trust #1. For example, when a property was due to become vacant, respondent would advertise immediately upon receipt of notice from the tenant. She would pay the advertising costs out of the trust account and contact the owner to reimburse the cost. She stated that they no longer follow this protocol. Instead, upon receiving a move out notice, she contacts the owner by letter and phone, and tells them PPMI will be withholding funds from the last rent check to pay for the advertising space to list the rental property. Another source of shortage was created by some owners preferring to hold the tenant security deposits. Respondent stated that she sent a letter to those owners asking them to return the security deposit to PPMI so that it is on hand to deal with move out costs.

25. Respondent stated that PPMI is an honest company. She believes she performs a tremendous service to the public. She stated that she now runs a monthly check register, verifies stubs to match check numbers, verifies there are funds on the trust ledger to pay for advertising, and ensures there are no deficits to the trust accounts. If there are insufficient funds to cover advertising costs, she will advertise

the rental listing on a "no-cost" site such as Craig's List. All of the signatories on the trust account are licensed. She has had no prior complaints with the Bureau or the Better Business Bureau.

26. At hearing, respondent's testimony was credible, candid, and forthright. She did not minimize the deficiencies found and took full responsibility for being out of compliance. She cooperated with Bureau representatives and took immediate action to correct errors. She has no prior Bureau discipline and presented as a woman of integrity. The issues uncovered have been timely corrected since January 2012. Two years have passed and during this time respondent has continued to operate PPMI in full compliance with the Real Estate Law. There is no evident risk to the public in allowing respondent to maintain her broker license.

Costs

27. Pursuant to Business and Professions Code sections 10148, subdivision (b) and 10106, the Bureau is authorized to seek reimbursement of the reasonable costs of investigation and enforcement at hearing from a licensee found to have committed a violation of the Real Estate Law. The Bureau submitted signed declarations of costs expended developing and litigating this matter.

28. Between September 20, 2011, and October 29, 2012, Bureau investigators and office staff spent 19.55 hours investigating the case. Their time was spent planning, interviewing, reviewing records, and report writing. Per their declaration, total investigation costs were \$1,204.10. This amount is reasonable and appropriate for the tasks performed.

Between January 19, 2012, and March 19, 2013, Bureau auditors spent 94 hours auditing the case. Their time was spent interviewing, reviewing records, performing bank reconciliations and accountability, and traveling. Per their declaration, total audit costs were \$5,722.20. This amount is reasonable and appropriate for the tasks performed.

Between October 1, 2012, and February 27, 2013, counsel spent 21 hours preparing the case for hearing. Her time was spent communicating with parties, preparing settlement proposals and prehearing motions, and preparing for hearing. Per her declaration, at a cost of \$89 per hour, total prosecution costs were \$1,869. This amount is reasonable and appropriate for the tasks performed.

The total cost of prosecution and investigation of Accusation H-5905 amounts to \$8,795.30, and is reasonable and appropriate considering the tasks performed.

29. Respondent receives income through her property management business and three rental properties. She has no unusual expenses, car payments, or dependent children to support.

LEGAL CONCLUSIONS

Applicable Laws

1. “It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement....” (Bus. & Prof. Code, § 10130.)

2. Business & Professions Code section 10131 states: “A real estate broker ... is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others:

[¶]...[¶]

(b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities.

[¶]...[¶]

3. The “officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.” (Bus. & Prof. Code, § 10159.2, subd. (a).)

4. “A real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker’s principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.” (Bus. & Prof. Code, § 10145, subd. (a)(1).)

5. “Compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds,

into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson." (Cal. Code Regs., tit. 10, § 2832, subd. (a).)

6. California Code of Regulations, title 10, section 2832.1, states: "The written consent of every principal who is an owner of the funds in the account shall be obtained by a real estate broker prior to each disbursement if such a disbursement will reduce the balance of funds in the account to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds."

7. California Code of Regulations, title 10, section 2834, subdivision (a) states: "Withdrawals may be made from a trust fund account of an individual broker only upon the signature of the broker or one or more of the following persons if specifically authorized in writing by the broker:

- (1) a salesperson licensed to the broker.
- (2) a person licensed as a broker who has entered into a written agreement pursuant to section 2726 with the broker.
- (3) an unlicensed employee of the broker with fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time."

8. Business and Professions Code section 10177 authorizes the Commissioner to suspend or revoke the license of a real estate licensee or corporation if an officer, director, or person owning or controlling ten percent or more of the corporation's stock has "willfully disregarded or violated the Real Estate Law." (Bus. & Prof. Code, § 10177, subd. (d).)

Cause for Discipline

9. As to Accusations H-5905 SAC, clear and convincing evidence to a reasonable certainty established cause for disciplinary action against respondents Michelle S. Debach and Placer Property Management, Inc., pursuant to Business and Professions Code sections 10130, 10131, subdivision (b), 10145, 10159.2, and 10177, subdivision (d); and California Code of Regulations, title 10, sections 2832.1 and 2834.

10. Cause for discipline of respondent's license as a real estate broker was established by reason of the matters set forth in Factual Findings 4 through 26, and Legal Conclusion 9. Respondent violated the Real Estate Law as stated below:

- a. Respondent operated PPMI as a real estate entity without having first obtained a corporate real estate license. (Bus. & Prof. Code, § 10130, 10177, subd. (d).)
- b. Respondent allowed the account balance of Trust #1 to fall below the aggregate liability of her trust obligations without the prior written consent of each owner of the funds. (Bus. & Prof. Code, § 10145; Cal. Code Regs., tit. 10, § 2832.1.)
- c. Respondent authorized a non-licensed individual without a fidelity bond to be a signatory on the trust accounts. (Cal. Code Regs., tit. 10, § 2834.)

11. By virtue of Legal Conclusions 9 and 10, respondent as the designated broker-officer, failed to exercise reasonable supervision and control to ensure that PPMI was in full compliance with Real Estate Law. (Bus. & Prof. Code, § 10130, 10159.2, subd. (a).)

Cost Recovery Analysis

12. The Commissioner has discretion to recoup audit costs after a final desist and refrain order or after a disciplinary hearing if the broker has been found to have violated Business and Professions Code section 10145 or any related regulation. (Bus. & Prof. Code, § 10148, subd. (b).) Additionally, the Commissioner may request the administrative law judge (ALJ) to direct a licensee found to have committed a violation of the Real Estate Law to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. (Bus. & Prof. Code, § 10106, subd. (a).)

Zuckerman v. Board of Chiropractic Examiners (2002) 29 Cal.4th 32, sets forth factors to be considered in determining a reasonable cost assessment for disciplined licensees. Factors to be considered include whether the licensee had a “subjective good faith belief” in the merits of his or her position, whether the licensee raised a “colorable challenge” to the proposed discipline, and the extent of the licensee’s financial ability to make later payments. Further, full costs may not be assessed when a “disproportionately large investigation” was conducted given the circumstances of the case. Finally, the ALJ should consider the public interest in regulating the targeted conduct.

At hearing, respondent presented evidence that she is actively engaged in property management activities. She owns three rental properties. There is no evidence that she lacked a “subjective good faith belief” in the merits of her position. She did not, however, present a colorable challenge to the discipline sought. She has no unusual expenses, car payments, or dependent children to support.

By reason of the matters set forth in Factual Findings 27 through 29, in conjunction with an analysis pursuant to the factors set forth in *Zuckerman*, *supra*, it

is determined that the billed prosecution, investigation, and enforcement costs totaling \$8,795.30 represent a reasonable assessment to impose on respondent. Respondents Debach and PPMI shall reimburse the Bureau in the amount of \$8,795.30.

Conclusion

13. Respondent was originally licensed in 1990 as a real estate salesperson and in 2009 as a broker. It was established that respondent failed to obtain a corporate broker license on behalf of PPMI, allowed her bookkeeper who was unlicensed and un-bonded to be a signatory on PPMI's trust accounts, and allowed the trust account balance to develop a shortage of \$3,465.76. In mitigation, respondent has not been previously disciplined by the Bureau. She has a great deal of experience in the property management field. She was cooperative during the investigation and addressed issues of noncompliance with a sense of urgency. At hearing she was professional and candid in her explanation of events. The violations were administrative in nature. Her deficiencies did not arise to bad faith or malfeasance, but as she credibly testified, indicated a lack of knowledge on her part. Her omissions did not result in actual harm to the public.

14. It would not be contrary to the public interest to allow respondents Debach and PPMI to retain their individual and corporate broker licenses with appropriate restrictions in place. The matters set forth in the Factual Findings and Legal Conclusions as a whole were considered in making the following order.

ORDER

All licenses and licensing rights of respondents Michelle Sylvia Debach and Placer Property Management, Inc., under the Real Estate Law are REVOKED; provided, however, a RESTRICTED corporate real estate broker license shall be issued to respondent Placer Property Management, Inc., and a RESTRICTED real estate broker license shall be issued to respondent Michelle Sylvia Debach, pursuant to Section 10156.5 of the Business and Professions Code if respondents make application therefor and pay to the Bureau of Real Estate the appropriate fee for the restricted licenses within 90 days from the effective date of this Decision.

The restricted broker licenses issued to respondents 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. Respondents shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

2. Costs. Pursuant to Business and Professions Code sections 10148 and 10106, respondents Debach and PPMI shall pay the Commissioner's reasonable cost for prosecution, investigation, and enforcement of this disciplinary action in the amount of \$8,795.30. Respondents Debach and PPMI are jointly and severally liable for these costs. These costs shall be paid in full or in accordance with a payment schedule as agreed to between respondent Debach and the Commissioner.

3. The restricted licenses issued to respondents 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.

4. The restricted licenses issued to respondents may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondents have 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.

5. Respondents shall not be eligible to apply for the issuance of unrestricted real estate licenses 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.

6. Respondent Debach 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 Debach fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent Debach presents such evidence. The Commissioner shall afford respondent Debach the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: January 8, 2014



DIAN M. VORTERS

Administrative Law Judge
Office of Administrative Hearings

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