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MAY 11 2011

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JANICE SHERRISSE AKINS,

Respondent.

No. H-7703 SF

ORDER EXTENDING TIME

On December 20, 1999, in Case No. H-7703 SF, a Decision was rendered revoking the real estate salesperson license of Respondent effective February 17, 2000.

On January 10, 2008, Respondent petitioned for reinstatement of said real estate salesperson license.

Effective May 11, 2010, Respondent's petition for reinstatement of said real estate salesperson license was denied, but Respondent was granted the right to a restricted real estate salesperson license with conditions. An Order was issued that a restricted real estate salesperson license will be issued to Respondent if Respondent satisfies the following conditions within twelve (12) months from the date of the Order:

1. Respondent shall qualify for, take and pass the real estate salesperson license examination.

///

1 2. Submittal of a completed application and payment of the fee for a real
2 estate salesperson license.

3 The restricted license issued to Respondent shall be subject to all of the provisions
4 of Section 10156.7 of the Business and Professions Code and to the following limitations,
5 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

6 A. The restricted license issued to Respondent may be suspended prior to
7 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
8 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
9 capacity as a real estate licensee.

10 B. The restricted license issued to Respondent may be suspended prior to
11 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
12 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
13 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
14 license.

15 C. Respondent shall not be eligible to apply for the issuance of an
16 unrestricted real estate license nor the removal of any of the limitations, conditions or restrictions
17 of a restricted license until two (2) years have elapsed from the date of the issuance of the
18 restricted license to Respondent.

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

23 1. That the employing broker has read the Decision of the Commissioner
24 which granted the right to a restricted license; and

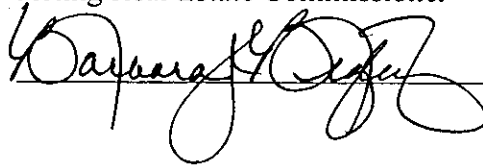
25 2. That the employing broker will exercise close supervision over the
26 performance by the restricted licensee relating to activities for which a real estate license is
27 required.

1 Good cause having been shown, the time during which Respondent must qualify
2 for, take and pass the real estate salesperson license examination and submit a completed
3 application and payment of the fee for a restricted real estate salesperson license is hereby
4 extended to November 11, 2011.

5 This Order shall be effective immediately.

6 DATED 5/10/11

7 BARBARA J. BIGBY
8 Acting Real Estate Commissioner

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APR 21 2010

DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
JANICE SHERRISSE AKINS,
Respondent.

No. H-7703 SF

ORDER DENYING REINSTATEMENT OF LICENSE
BUT GRANTING RIGHT TO A RESTRICTED LICENSE

On December 20, 1999, in Case No. H-7703 SF, a Decision was rendered
revoking the real estate salesperson license of Respondent effective February 17, 2000.

On January 10, 2008, Respondent petitioned for reinstatement of said real estate
salesperson license, and the Attorney General of the State of California has been given notice of
the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in
support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has
undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
estate salesperson license.

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
Bar (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and

1 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
2 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

3 The Department has developed criteria in Section 2911 of Title 10, California
4 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
5 reinstatement of a license. Among the criteria relevant in this proceeding are:

6 Regulation 2911(a) The passage of not less than two years since the most recent
7 criminal conviction or act of the applicant that is a basis to deny the departmental action sought.
8 (A longer period will be required if there is a history of acts or conduct substantially related to
9 the qualifications, functions or duties of a licensee of the department.)

10 Respondent's real estate license was revoked in 2000 based on a 1991 felony
11 conviction for welfare fraud. Respondent was also convicted of theft in 2003. Although
12 Respondent has satisfied several of the criteria of rehabilitation set out in Regulation 2911, the
13 lengthy period of time in between Respondent's two convictions leads to the conclusion that
14 insufficient time has passed since Respondent's latest conviction to satisfy Regulation 2911(a).

15 I am satisfied, however, that it will not be against the public interest to issue a
16 restricted real estate salesperson license to Respondent.

17 A restricted real estate salesperson license shall be issued to Respondent pursuant
18 to Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following
19 conditions prior to and as a condition of obtaining a restricted real estate salesperson license
20 within twelve (12) months from the date of this Order:

21 1. Respondent shall qualify for, take and pass the real estate salesperson
22 license examination.

23 2. Submittal of a completed application and payment of the fee for a real
24 estate salesperson license.

25 The restricted license issued to Respondent shall be subject to all of the provisions
26 of Section 10156.7 of the Business and Professions Code and to the following limitations,
27 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

A. 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.

B. 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.

C. Respondent shall not be eligible to apply for the issuance of an
unrestricted real estate license nor the removal of any of the limitations, conditions or restrictions
of a restricted license until two (2) years have elapsed from the date of the issuance of the
restricted license to Respondent.

D. 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:

1. That the employing broker has read the Decision of the Commissioner
which granted the right to a restricted license; and

2. 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.

This Order shall become effective at 12 o'clock noon on MAY 11 2010

IT IS SO ORDERED

JEFF DAVIS
Real Estate Commissioner

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FILED

SEP 05 2002

DEPARTMENT OF REAL ESTATE

By Juan R. Rios

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
JANICE SHERRISSE AKINS,) NO. H-7703 SF
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On December 20, 1999, a Decision was rendered herein
revoking the real estate salesperson license of Respondent.

On February 27, 2001, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

I have considered Respondent's petition and the
evidence and arguments in support thereof. Respondent has failed
to demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate salesperson license in that Respondent
has no experience acting in a fiduciary capacity. Respondent
has not established that she has complied with Section 2911(j),

1 Title 10, California Code of Regulations. Further, on May 14,
2 2001, Respondent was charged with violations of Sections 484-
3 487(b)(3) (Grand Theft by Employee) and 470(a) (Forgery) of
4 the Penal Code in Santa Clara County Superior Court Case No.
5 EE118135.

6 In addition, in response to a question in the petition
7 application, "Have you ever been a defendant in any civil court
8 litigation, including small claims court", Respondent answered
9 "Yes" but failed to disclose in her petition the following civil
10 court litigation in which Respondent has been a defendant:

- 11 1. Martin-Werk v. Akins, Santa Clara Superior Court
12 No. DC01-412408.
- 13 2. Josefsberg v. Akins, Santa Clara Superior Court No.
14 DC98-373034.
- 15 3. Palo Alto City Employees Federal Credit Union v.
16 Akins, Palo Alto/Mountain View Municipal Court No.
17 BS95034963.
- 18 4. Rau v. Akins, Santa Clara Municipal Court No.
19 DC96322.
- 20 5. Cummings v. Akins, Los Gatos/Campbell/Saratoga
21 Municipal Court No. AS01266462.

22 Respondent's lack of candor in completing her petition
23 application, demonstrates that she has not established compliance
24 with Section 2911(i) and (m) of the Regulations.

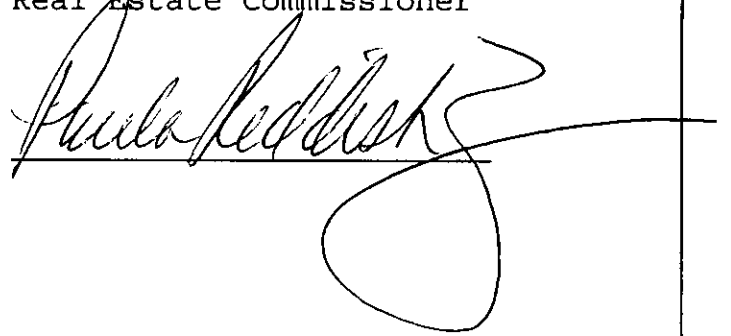
25 Finally, Respondent has failed to discharge debts in
26 excess \$13,000 owed to the Internal Revenue Service and \$4,000
27 owed to the Franchise Tax Board.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of her real estate salesperson license
3 is denied.

4 This Order shall be effective at 12 o'clock noon on
5 September 25, 2002.

6 DATED: July 27, 2002.

7 PAULA REDDISH ZINNEMANN
8 Real Estate Commissioner

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FEB 15 2000

DEPARTMENT OF REAL ESTATE

By Laurie A. Zani

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H-7703 SF

JANICE SHERRISSE AKINS,)

OAH NO. N-1999060128

Respondent.)

ORDER DENYING RECONSIDERATION

On December 20, 1999, a Decision was rendered in the above-entitled matter. The Decision is to become effective February 17, 2000.

On January 14, 2000, Respondent petitioned for reconsideration of the Decision of December 20, 1999.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of December 20, 1999, and reconsideration is hereby denied.

IT IS HEREBY ORDERED February 14, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

FILED

JAN 18 2000

DEPARTMENT OF REAL ESTATE

Laurie G. Zinn
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-7703 SF
JANICE SHERRISSE AKINS,) OAH NO. N-1999060128
Respondent.)

ORDER STAYING EFFECTIVE DATE

On December 20, 1999, a Decision was rendered in the above-entitled matter to become effective January 18, 2000.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of December 20, 1999, is stayed for a period of thirty (30) days.

The Decision of the Real Estate Commissioner of December 20, 1999, shall become effective at 12 o'clock noon on February 17, 2000.

DATED: January 18, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 28 1999

DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Accusation of)
JANICE SHERRISSE AKINS,)
Respondent.)

NO. H-7703 SF

OAH NO. N-1999060128

DECISION

The Proposed Decision dated November 23, 1999, 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 on grounds of the conviction of a crime.

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 January 18, 2000.

IT IS SO ORDERED December 20, 1999.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JANICE SHERRISSE AKINS,

Respondent.

No. H-7703 SF

OAH No. N 1999060128

PROPOSED DECISION

On October 13, 1999, in Oakland, California, Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California ("OAH"), heard this matter.

James L. Beaver, Esq., Department Counsel, represented complainant.

Stephen W. Thomas, Esq., of Gagen, McCoy, McMahon and Armstrong, 279 Front Street, P.O. Box 218, Danville, California 94526-0218, represented respondent Janice Sherrisse Akins, who appeared at all phases of the hearing.

The record was held open for the purpose of affording complainant's counsel the opportunity to file with OAH a current certification of license history regarding respondent. On October 21, 1999, complainant's counsel caused the Department's License Certification, dated October 19, 1999, to be sent to OAH by telefacsimile transmission. The telefax was marked as Exhibit "12," and received in evidence. On October 25, 1999, OAH received the original License Certificate, which was marked as Exhibit "13." On October 22, 1999, OAH received from complainant's counsel a telefax memorandum, which was marked as Exhibit "14," and received as argument. On October 27, 1999, OAH received from respondent's attorney a letter, dated October 26, 1999, which was marked as Exhibit "B." Along with Exhibit B, OAH received the Declaration of Janice S. Akins, which was marked as Exhibit "C" and was received in evidence.

The record was closed and the matter was deemed submitted on October 27, 1999.

FACTUAL FINDINGS

1. Complainant Les R. Bettencourt ("Complainant"), in his official capacity as a Deputy Real Estate Commissioner of the State of California, made the accusation against respondent.

2. Respondent Janice Sherrisse Akins ("respondent") is currently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate salesperson.

As of March 26, 1998, the Department issued respondent a conditional salesperson license pursuant to Business and Professions Code section 10153.4.

On April 10, 1998, the Department recorded that respondent was employed from March 27, 1997, by Contempo Realty Inc. of Fremont, California.

By telefax message, dated October 22, 1999, complainant's counsel indicates that respondent delivered into his possession the original certificate, issued October 19, 1999, that shows respondent's completion of the two courses required by Business and Professions Code section 10153.4.

Respondent's license will expire on March 25, 2002, unless renewed.

3. In response to question 25 on the application for licensure as a real estate salesperson, respondent failed to fully and accurately disclose the record of her convictions as herein detailed in Factual Findings 7 and 10.

By respondent's failure to provide an accurate account of her convictions, she presented the Department with incorrect and false or misleading information regarding her history of criminal convictions. Respondent made material misrepresentations of fact in the application and in her subsequent statements to the Department during its investigation of her history of criminal convictions.

4. On respondent's licensure application, dated February 10, 1998, she checked the block "yes" to the question: "Have you ever been convicted of any violation of law? (you may omit any traffic violation where the disposition was a fine and the amount was \$100 or less.)"

In the space on the application for setting forth data regarding conviction history information, respondent entered "Palo Alto, CA" as the court of conviction although the application asks for "(Name and Address)." She entered "Palo Alto, CA," for the arresting agency. Respondent entered "1/90" for the date of conviction. She checked the block for "type of conviction" as a misdemeanor. Then, under the column entitled "code number violated," respondent wrote "PC504/487.1." Under disposition,

respondent wrote "Restitution." Then, under "case number", respondent wrote "B9190410."

5. On March 13, 1998, the Department dispatched a letter to respondent due to respondent's incomplete response to question 25 on the license application. The Department's letter conveyed: "Please provide information [as] to whether the sentence includes probation. If so, how long?"

6. In reply to the Department's letter, dated March 13, 1998, respondent wrote: "I guess I answered your Question [sic] wrong. I'm not currently on probation that was almost seven years ago. I thought the Question [sic] meant in your life time where (sic) you or did you have a misdemeanor...."

Additionally, respondent prepared a "Statement," dated March 14, 1999, in reply to the Department's letter.

History of Criminal Convictions

7. On July 31, 1991, in case number C8947149, the California Municipal Court for the County of Santa Clara, San Jose Facility, convicted respondent, on her plea of nolo contendere, of violating Welfare and Institutions Code section 10980, subdivision (c); paragraph (2) (Fraud in Obtaining AFDC [Aid to Families with Dependent Children]), a felony.

8. The facts and circumstances that led to respondent's conviction pertain to events beginning in approximately April 1987 when respondent by means of false statement, misrepresentation, impersonation and other fraudulent device, did obtain and retain welfare money from the County of Santa Clara, for a child, who was not entitled to receive such welfare assistance, in an amount exceeding in four hundred (\$400) dollars. Respondent's criminal activity in unlawfully taking welfare money ended in approximately October 1987.

Law enforcement arrested respondent on September 13, 1989.

9. In light of respondent's plea to a felony on July 31, 1991, the municipal court¹ ordered respondent to appear in Superior Court for sentencing.

On September 17, 1991, the California Superior Court for Santa Clara County, under its case number 149148, held a hearing on respondent's sentencing. The court suspended imposition of sentencing while respondent faithfully performed conditions of

¹ In light of respondent's nolo contendere plea, the court dismissed three counts of welfare fraud. The criminal complaint as to the dismissed charges represent that respondent unlawfully took welfare money and food stamps on dates through March 1989.

formal probation over a period of three years. The terms of formal probation included respondent's imprisonment in county jail for three days and a fine. The court commanded respondent to make restitution of the welfare proceeds that she had wrongfully taken through her fraudulent acts. The court ordered respondent to pay \$100 into the state restitution fund and \$240 as a pre-sentence and investigative fee. Also, the court directed respondent to perform 250 hours of community service by April 1, 1992.

10. On August 15, 1991, in case number B9190410, the California Municipal Court for the County of Santa Clara, Palo Alto Facility, convicted respondent, on her plea of guilty, of violating Penal Code sections 504/487.1 (Embezzlement), a misdemeanor.

11. The facts and circumstances of the acts that led to respondent's conviction of embezzlement involve her fraudulent appropriation of public funds while she held a position of trust as a city clerk for the City of Palo Alto.

12. As a result of respondent's conviction on August 15, 1991, the Palo Alto Municipal Court held proceedings on October 18, 1991, to determine its sentencing. On the latter date, the court suspended imposition of sentencing on the condition that for a period of two (2) years of formal probation that respondent faithfully adhere to the conditions of probation under the direction of the county's probation department.

The court commanded respondent to pay restitution as determined by the county's probation department. The court directed that she pay a \$20 restitution fee and monthly fee of five dollars towards other court fees. Furthermore, the court ordered respondent to perform "weekend work" for 25 days rather than to be confined in the county jail. The municipal court ordered respondent to begin the weekend work on October 26, 1991.

Matters in Mitigation

13. Respondent's first criminal conviction occurred on July 31, 1991, which is more than six years before the date of her application² for licensure. Her last conviction occurred on August 15, 1991.

14. In case number B9190410 regarding respondent's embezzlement conviction, the municipal court noted on July 15, 1994, that the restitution order for \$2,686.69 had been satisfied with respondent's payment of the debt to her former employer- the City of Palo Alto.

15. Respondent's period of probation from the embezzlement conviction expired on approximately July 15, 1995.

² Respondent signed the Department's Salesperson License Application on February 10, 1998.

On April 9, 1998, the Municipal Court for Santa Clara Judicial District, San Jose Facility, granted a petition for an order under Penal Code section 1203.4 to set aside the conviction, and to enter a not guilty plea.

16. On February 26, 1998, in Superior Court case number 149148³, the court granted respondent's petition under Penal Code section 1203.4 to expunge the record of conviction for felony welfare fraud (Welfare and Institution Code section 10980, subd. (c), para. (2)).

The period of probation from the welfare fraud conviction had ended in September 1994.

17. Since her last conviction, respondent has been gainfully employed. In late 1991 to January 1992, she asserts that she was a senior accountant for First Image Management Corporation of Palo Alto. From January 1992 until January 1994, respondent advances that she was a senior accountant for Robert Hall International in San Jose. She contends that she worked from February 1994 until August 1997 as a supervisor for Stormedia of Santa Clara. Recently, she worked for Siebel International. From February 1998 through the time she began to work for Contempo Realty under a conditional salesperson license, she was an accountant for Intarsia. Also near the time that she pursued a career in real estate sales, she also worked for Exodus Communications as a contract accountant for a period of six months. Also, respondent claims that she currently has her own accounting firm called Akins Consulting.

18. Respondent compellingly advances that she is currently married and that she has two sons, who have respective ages of 11 years and 5 years. She strongly suggests that her spouse and children provide her with sound familial stability.

Complainant provides no competent evidence that respondent's familial and personal life is anything other than stable.

19. Respondent claims that she volunteers for PTA functions and meetings at the Sunnyvale Middle School where her oldest son attends classes. However, she provides no specific detail of the nature or extent of her purported volunteer work.

20. Respondent asserts that she attends the church in Sunnyvale. Yet, she provides no facts regarding the nature of her church affiliation or the extent of her devotional adherence to precepts of honesty and integrity as espoused by her church.

21. Respondent pervasively asserts that she has taken real estate courses beyond the requisite number of hours necessary to fulfil real estate licensees' continuing education requirements.

³ The municipal court case number in this matter is C8947149.

Matters in Aggravation

22. The crimes for which respondent was convicted involve moral turpitude and are substantially related to the qualifications, functions and duties of a real estate licensee.

23. Respondent has a welfare fraud felony conviction, which was entered on a date less than 10 years ago.

24. Before April 9, 1998, regarding respondent's embezzlement conviction of August 15, 1991, the municipal court in Palo Alto had not issued an order of expungement under Penal Code section 1203.4 regarding the crime of embezzlement.

Before February 26, 1998, the municipal court in San Jose had not entered an order under Penal Code section 1203.4 to expunge the welfare fraud conviction.

25. Respondent expresses no remorse or contrition for theft of public funds. She indicates that the criminal charges were not necessary as she needed the money to attend to a family commitment and that she "returned the money." She does not voluntarily admit in her testimony at hearing that she did not make full restitution until July 1995, by reason of an order under the terms of her probation.

26. On January 8, 1992, following her conviction on October 18, 1991 for embezzlement in case number B9190410, the municipal court in Palo Alto modified the terms of probation. The court directed that respondent serve the balance of 12 days weekend work and was to commence on January 25, 1992.

27. Following the conviction in case number B9190410 for embezzlement, on September 8, 1993, the municipal court lodged a motion to revoke probation. On that date, a judge of the municipal court in Palo Alto issued a bench warrant and set bail at \$25,000 against respondent.

On June 29, 1994, respondent appeared in court while under custody of violation of probation in case number B9190410. Respondent's probation remained revoked and the court ordered that respondent pay restitution in the amount of \$2,686.69 through the county probation department. On June 29, 1994, the municipal court released respondent from custody on her own recognizance.

On July 15, 1994, respondent was again present in court for a probation hearing. The court reinstated formal probation and then modified the same to court probation. In case number B9190410, the municipal court extended probation to an expiration date of July 15, 1995.

28. Although on February 26, 1998, in case number 149148 the Superior Court for Santa Clara County issued an order for record clearance under Penal Code section 1203.4, the court record issued a notice that respondent has failed to appreciate and to honor. The "Notice to Defendant Under Section 1203.4 of the Penal Code," which appears on the court's order in italics script, reads as follows:

A Record Clearance order pursuant to Penal Code Section 1203.4 *does not relieve you of the obligation to disclose the conviction* in response to any direct question contained in any questionnaire or *application* for public office, *for licensure* by any State or local agency.... [Emphasis added.]

29. Both respondent's licensure application, dated February 10, 1998, and her subsequent statement, dated March 14, 1998, contains incorrect and false or misleading statements.

On the face of the application she gives a conviction date of "January 1990." Respondent was not truthful in the original application as no conviction occurred as early as January 1990. Rather the earliest conviction was on July 31, 1991.

In her March 1998 statement, respondent wrote, in part: "The case was well over *eight years ago* and carried *one year probation* that was over *6 ½ years ago*." [Emphasis added.] On the face of the Department's letter, dated March 13, 1998, respondent wrote: "I'm not currently on probation that was almost seven years ago...." In the March 1998 statement respondent misrepresents or prevaricates in no less than three phrases in one sentence.

The August 1991 conviction in the Palo Alto Municipal Court occurred six years, seven months before she wrote the March 1998 statement. The Palo Alto Municipal Court conviction carried a term of probation of two years, which ended no earlier than July 15, 1994, which was two years eight months before the statement. Respondent's welfare fraud conviction was six years eight months before the March 1998 statement. Probation from the welfare fraud conviction appears not to have ended before September 16, 1994, which was less than three years, six months before the March 1998 statement. Moreover, on February 26, 1998 - approximately two weeks after her application and two weeks before her March 1998 statement- respondent caused an attorney to seek an order under Penal Code section 1203.4 from the convicting conviction for record closure in the welfare fraud matter.

30. Respondent is not credible in representing in her testimony at the hearing of this matter that the embezzlement conviction in the Palo Alto Municipal Court and the welfare fraud conviction in the San Jose Municipal Court had been "combined."

In the welfare fraud case, she appeared in the San Jose Court before three judges whose names were "Kim," "Wetenkamp," and "Mihara." While in the embezzlement conviction case, respondent appeared before three different judges whose names were "Ambrose," "Hanifin," and "Brown."

The records on neither the Palo Alto Municipal Court nor the San Jose Municipal Court indicate any consolidation of the files for the distinct criminal offenses.

Moreover, respondent initiated petitions under Penal Code section 1203.4 in two separate courts. The orders for criminal records closure issued in February 1998 and April 1998. Those dates were after respondent signed her license application, dated February 10, 1998.

31. Respondent is not credible during the hearing of this matter in feinting forgetfulness regarding the conviction for welfare fraud. Her demeanor while testifying and her inconsistency in oral representations indicate that she is not completely truthful in the hearing of this matter.

32. In February 1999, respondent continued to make incorrect, false or misleading statements to the Department's investigator. In a statement, signed under penalty of perjury, respondent wrote: "At the time of signing my application I disclosed that I had two cases that were actually linked together in the initial court proceeding....Even though these issues *are from 1987* anyway...." [Emphasis added.]

33. Respondent fails to provide evidence from family members, friends or other persons familiar with her previous conduct and who also are familiar with her attitudes and behavior patterns since the convictions in 1991.

34. Respondent calls a single witness who unsuccessfully attempted to support her claim that she possesses a reputation for integrity and honesty.

Rick Geha, a manager for Century 21 Contempo Realty Inc. of Fremont, California, appeared as respondent's witness. He has been respondent's immediate supervisor and real estate industry mentor since late 1997 when he first met her.

Although he claims that he knows respondent "very well," before the Department's accusation he did not know that respondent had been convicted of welfare fraud. Moreover, although his signature appears on respondent's application for licensure, Mr. Geha did not quiz respondent about the second page of the application that set forth and indication of a criminal conviction. Mr. Geha acknowledges that respondent's application bears a rubber stamp of his signature, and that he was indifferent to respondent's past record of dishonesty and criminal activity.

Mr. Geha opines that respondent has a "drive" to not only succeed in the real estate business, but she also wants "to dominant in the business." Mr. Geha conveys a paramount interest in respondent as an energetic producer of sales and revenue for his firm.

Mr. Geha conveys that he supervises scores of employees and hence is a keen assessor of people. Yet, he was disinterested in complainant's case during the hearing as he read a book in the hearing while complainant's witnesses' provided the record with respondent's criminal history and her deception in not disclosing to the Department the criminal history.

Mr. Geha expresses that his duties to the public interest in his capacity as a manager of a corporate real estate broker's office have little or "anything to do with the past of a person" he may hire. He reluctantly advances that "possibility" a potential real estate salesperson's conviction of embezzlement may reflect unfavorably on the trait of honesty of such a person. Mr. Geha does not subscribe to the precept that the past conviction for embezzlement should exist as "a red flag that warrants further inquiry" by those dealing with the real estate licensee to detect the licensee's true disposition to honesty and integrity.

Mr. Geha offers no evidence that respondent holds any degree of remorse for her past criminal misconduct. He knows of no account of respondent expressing contrition for her failure to make a full and complete disclosure to the Department of her past misconduct.

By reason of being acquainted with respondent for only two years, Mr. Geha has little insight into the respondent's disposition for honesty and integrity in complying with the law.

35. Respondent's acts of making material misrepresentations during the course of submitting an application for licensure, and her disposition towards the Department's investigation, indicate that she has not adopted a change in attitude or character from the time that she committed criminal acts of dishonesty.

Ultimate Finding

36. It would be against the public interest for respondent to hold a salesperson license, even on a restricted basis.

CONCLUSIONS OF LAW

1. Cause for disciplinary action against the license issued to respondent exists under Business and Professions Code sections 498 and 10177(a), by reason of the matters set forth in Factual Finding 3.

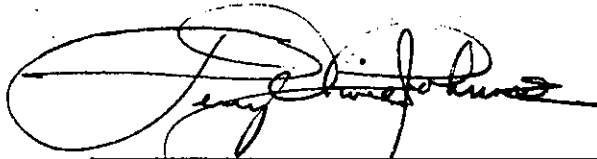
2. Respondent's failure to disclose material information regarding her history of criminal convictions, coupled with her tactics of evasion in responding to the Department's investigation establish that respondent has a continuing tendency towards dishonesty and avoidance of responsibility. Grave dangers exist to the public should a real estate license be retained by respondent. The interests of an innocent buyer or seller of real property would be markedly compromised against respondent's formidable skill to distort and her habit of selective memory in the event that her personal interests compete with the goals of a buyer or a seller.

3. The matters in mitigation and rehabilitation as set forth in Factual Findings 13 through 21 have been considered in making the following order.

ORDER

All licenses and licensing rights of respondent Janice Sherrisse Akins
under the Real Estate Law are revoked

DATED: November 23rd, 1999

A handwritten signature in black ink, appearing to read "Perry O. Johnson", is written over a horizontal line.

PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 04 1999

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

JANICE SHERRISSE AKINS,

Respondent

Case No. H-7703

OAH No.

FIRST CONTINUED
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at
The Office of Administrative Hearings, the Elihu Harris State

Building, 1515 Clay Street, Suite 206, Oakland, CA 94612

on WEDNESDAY--OCTOBER 13, 1999, at the hour of 3:00 PM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You
are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent
yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the
Department may take disciplinary action against you based upon any express admission or other evidence including
affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses
testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the
production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who
does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: August 4, 1999

DEPARTMENT OF REAL ESTATE

By

JAMES L. BEAVER

Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JUN - 1 1999

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

JANICE SHERRISSE AKINS,

Respondent

Case No. H-7703 SF

OAH No.

By Kathleen Contreras

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at

The Office of Administrative Hearings, the Elihu Harris

State Building, 1515 Clay Street, Suite 206, Oakland, CA 94612

on August 11, 1999, at the hour of 3:00 PM, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: June 1, 1999

By

DAVID B. SEALS

Counsel

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
3 P.O. Box 187000
4 Sacramento, California 95818-7000

5 Telephone: (916) 227-0789

FILED

APR 29 1999

DEPARTMENT OF REAL ESTATE

By Jean R. Lasken

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JANICE SHERRISSE AKINS,)
13 Respondent.)

NO. H-7703 SF

ACCUSATION

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against JANICE SHERRISSE AKINS (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 The Complainant, Les R. Bettencourt, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

24 Respondent was issued a real estate salesperson license
25 on or about March 26, 1998, following Respondent's application
26 therefor filed on or about February 25, 1998, with the knowledge
27 and understanding that any license issued as a result of said

1 application would be subject to the conditions of Section 10153.4
2 of the Business and Professions Code.

3 III

4 In response to Question 25 of said application, to wit:
5 "Have you ever been convicted of any violation of law?",
6 Respondent answered "Yes", but disclosed only a 1990 conviction
7 for violation of Penal Code Sections 504/487.1.

8 IV

9 On or about July 31, 1991, in the Municipal and Superior
10 Court, State of California, County of Santa Clara, Respondent was
11 convicted of violation of Section 10980(c)(2) of the California
12 Welfare and Institutions Code (Welfare Fraud), a felony and a
13 crime involving moral turpitude which bears a substantial
14 relationship under Section 2910, Title 10, California Code of
15 Regulations, to the qualifications, functions, or duties of a real
16 estate licensee.


17 V

18 Respondent's failure to reveal the conviction set
19 forth in Paragraph IV in said application constitutes the
20 procurement of a real estate license by fraud, misrepresentation,
21 or deceit, or by making a material misstatement of fact in said
22 application.

23 VI

24 The facts alleged in Paragraph V above constitute cause
25 under Sections 498 and 10177(a) of the Code for the suspension or
26 revocation of all licenses and license rights of respondent under
27 the Real Estate Law.

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of Respondent under the Real Estate
5 Law (Part 1 of Division 4 of the Business and Professions Code),
6 and for such other and further relief as may be proper under other
7 provisions of law.

8
9
10 
11 LES R. BETTENCOURT
12 Deputy Real Estate Commissioner
13
14

15 Dated at Oakland, California,
16 this 21st day of April, 1999.
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