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**FILED**

DEC 29 2008

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of  
RANDY B. KELLER,  
Respondent.

No. H-9039 SF

ORDER GRANTING UNRESTRICTED LICENSE

On January 6, 2005, a Decision was rendered herein denying the Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on February 3, 2005, and Respondent has operated as a restricted licensee since that time.

On January 16, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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

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

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

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

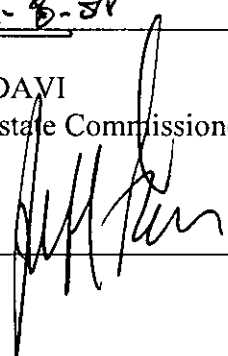
8                    (a) Submit a completed application and pay the appropriate fee for a real estate  
9 salesperson license, and

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

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

17                    This Order shall become effective immediately.

18                    IT IS SO ORDERED

19                    12-8-88  
20                    JEFF DAVI  
21                    Real Estate Commissioner  
22                      
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JAN 10 2005

Department of Real Estate  
P.O. Box 187007  
Sacramento, CA 95818-7007  
Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By James Shaw

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

*In the Matter of the Application of*

RANDY B. KELLER

Respondent

No. H- 9039 SF

STIPULATION AND  
WAIVER

It is hereby stipulated by and between RANDY B. KELLER (hereinafter "Respondent") and Respondent's attorney, Marvin Pederson, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on December 1, 2004 in this matter:

Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets all the requirements for issuance of a real estate salesperson license. Respondent further understands that by

1 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner  
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance  
3 to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are  
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real  
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and  
7 Professions Code. Respondent understands that any such restricted license will be issued subject to and be  
8 limited by Section 10153.4 of the Business and Professions Code.

9 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's  
10 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's  
11 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver  
12 is accepted by the Real Estate Commissioner. However, Respondent is not waiving Respondent's right to a  
13 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and  
14 Waiver is not accepted by the Commissioner.

15 Respondent further understands that the following conditions, limitations, and restrictions will attach  
16 to a restricted license issued by the Department of Real Estate pursuant hereto:

17 1. The license shall not confer any property right in the privileges to be exercised including the  
18 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right  
19 to exercise any privileges granted under this restricted license in the event of:

20 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears  
21 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or

22 b. The receipt of evidence that Respondent has violated provisions of the California Real  
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or  
24 conditions attaching to this restricted license.

25 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license  
26 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted  
27

1 license until two years have elapsed from the date of issuance of the restricted license to  
2 Respondent.

3 3. With the application for license, or with the application for transfer to a new employing broker,

4 Respondent shall submit a statement signed by the prospective employing broker on a form  
5 approved by the Department of Real Estate wherein the employing broker shall certify as  
6 follows:

7 a. That broker has read the Statement of Issues which is the basis for the issuance of the  
8 restricted license; and

9 b. That broker will carefully review all transaction documents prepared by the restricted  
10 licensee and otherwise exercise close supervision over the licensee's performance of acts  
11 for which a license is required.

12 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of

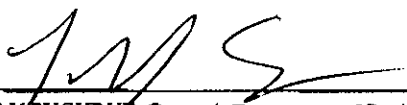
13 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within  
14 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to  
15 the Commissioner of successful completion, at an accredited institution, of two of the courses  
16 listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,  
17 advanced real estate finance, or advanced real estate appraisal. If Respondent fails to timely  
18 present to the Department satisfactory evidence of successful completion of the two required  
19 courses, the restricted license shall be automatically suspended effective eighteen (18) months  
20 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of  
21 the restricted license, Respondent has submitted the required evidence of course completion and  
22 the Commissioner has given written notice to Respondent of the lifting of the suspension.

23 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified

24 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,  
25 and shall not be entitled to the issuance of another license which is subject to Section 10153.4  
26 until four years after the date of the issuance of the preceding restricted license.  
27

1 12-29-04

2 Dated

3   
TRULY SUGHRUE, Counsel, Department of Real Estate

4 \*\*\*

5 I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are  
6 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me  
7 by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509,  
8 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights,  
9 including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine  
10 witnesses against me and to present evidence in defense and mitigation of the charges.

11 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and  
12 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax  
13 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending  
14 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt  
15 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received  
16 the original signed Stipulation and Waiver.

17 12-24-04

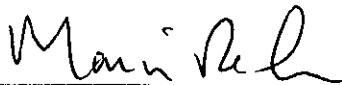
18 Dated

19   
RANDY B. KELLER, Respondent

20 I have reviewed the Stipulation and Waiver as to form and content and have advised my client  
21 accordingly.

22 12-24-04

23 Dated

24   
MARVIN PEDERSON, Attorney for Respondent

\*\*\*

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

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

This Order is effective immediately.

IT IS SO ORDERED

  
Jeff Davis  
Real Estate Commissioner

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**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
DEC 09 2004

DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

RANDY B. KELLER

By *Carol Shaur*

} Case No. H-9039 SF

} OAH No.

Respondent

**NOTICE OF HEARING ON APPLICATION**

***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, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, FEBRUARY 10, 2005**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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:* DECEMBER 9, 2004

By *Truly Sughrue*  
TRULY SUGHRUE, Counsel

FILED  
DEC 01 2004

DEPARTMENT OF REAL ESTATE

By: *[Signature]*

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0781  
8

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Application of )  
12 RANDY B. KELLER, )  
13 Respondent. )  
14  
15 No. H-9039 SF  
16 STATEMENT OF ISSUES

15 The Complainant, LES R. BETTENCOURT, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against RANDY B. KELLER (hereinafter "Respondent"), is  
18 informed and alleges as follows:

19 I

20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about May 17, 2004, with the knowledge and  
23 understanding that any license issued as a result of said  
24 application would be subject to the conditions of Section 10153.4  
25 of the Business and Professions Code.

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II

Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "Yes" and disclosed the convictions set forth in Paragraph V, VI, VII, and VIII below.

IV

On or about October 25, 1983, in the Municipal Court, County of Sonoma, Respondent was convicted of a violation of Section 409 of the California Penal Code (Failure to Disperse), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

On or about August 23, 1984, in the Municipal Court, County of Sonoma, Respondent was convicted of a violation of Section 12020(a) of the California Penal Code (Carrying a Concealed Weapon), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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1 VI

2 On or about January 15, 1985, in the Municipal Court,  
3 County of Sonoma, Respondent was convicted of a violation of  
4 Section 23152(A) of the California Vehicle Code (Driving Under  
5 the Influence), a crime involving moral turpitude which bears a  
6 substantial relationship under Section 2910, Title 10, California  
7 Code of Regulations, to the qualifications, functions, or duties  
8 of a real estate licensee.

9 VII

10 On or about February 2, 1988, in the Municipal Court,  
11 County of Sonoma, Respondent was convicted of a violation of  
12 Section 2002 of the California Fish and Game Code (Unlawful  
13 Possession of Animal), a crime involving moral turpitude which  
14 bears a substantial relationship under Section 2910, Title 10,  
15 California Code of Regulations, to the qualifications, functions,  
16 or duties of a real estate licensee.

17 VIII

18 On or about June 20, 2003, in the Superior Court,  
19 County of Sonoma, Respondent was convicted of a violation of  
20 Section 243(e)(1) of the California Penal Code (Unlawful Use of  
21 Force on Spouse), a crime involving moral turpitude which bears a  
22 substantial relationship under Section 2910, Title 10, California  
23 Code of Regulations, to the qualifications, functions, or duties  
24 of a real estate licensee.

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IX

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

X

Respondent's failure to reveal the conviction set forth above in Paragraph IV in said application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

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



LES R. BETTENCOURT  
Deputy Real Estate Commissioner

Dated at Oakland, California,  
this 23rd day of November, 2004.