

Telephone: (916) 227-0789

FILED
SEP 21 2005

DEPARTMENT OF REAL ESTATE

By K. J. J. J.

In the Matter of the Application of

No. H- 9342 SF

DAMON PAUL BOWERS.

STIPULATION AND WAIVER

Respondent

I, DAMON PAUL BOWERS, respondent herein, do hereby affirm that I have applied to the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefor.

I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on AUGUST 12, 2005, in connection with my application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

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

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

13 I further understand that the following conditions, limitations, and restrictions will attach to a
14 restricted license issued by the Department of Real Estate pursuant hereto:

- 15 1. The license shall not confer any property right in the privileges to be exercised including the
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
17 to exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until two years have elapsed from the date of issuance of the restricted license to respondent.
26
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1 3. With the application for license, or with the application for transfer to a new employing broker, I
2 shall submit a statement signed by the prospective employing broker on a form approved by the
3 Department of Real Estate wherein the employing broker shall certify as follows:

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

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

9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months
11 of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of
12 successful completion, at an accredited institution, of two of the courses listed in Section
13 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real
14 estate finance, or advanced real estate appraisal. If I fail to timely present to the Department
15 satisfactory evidence of successful completion of the two required courses, the restricted license
16 shall be automatically suspended effective eighteen (18) months after the date of its issuance.
17 Said suspension shall not be lifted unless, prior to the expiration of the restricted license, I have
18 submitted the required evidence of course completion and the Commissioner has given written
19 notice to Respondent of the lifting of the suspension.

20 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license
21 under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall
22 not be entitled to the issuance of another license which is subject to Section 10153.4 until four
23 years after the date of the issuance of the preceding restricted license.

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

of the faxed copy by the Department shall be as binding on respondent as if the Department had received the original signed Stipulation and Waiver.

9/6/05

Dated

Damon Bowers

DAMON PAUL BOWERS, 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 DAMON PAUL BOWERS 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

9-20-05

Jeff Davi
Jeff Davi
Real Estate Commissioner

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789
5 -or- (916) 227-0792 (Direct)

FILED
AUG 12 2005

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 DAMON PAUL BOWERS,) NO. H-9342 SF
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, E. J. Haberer II, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against DAMON PAUL BOWERS (hereinafter "Respondent")
18 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 December 26, 2002 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
25 10153.4 of the California Business and Professions Code.

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II

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 17, 2005 with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section 10153.4 of the California Business and Professions Code.

III

Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

IV

In response to Question 25 of the 2002 application, to wit: "Have you ever been convicted of any violation of law? If yes, complete #27 below.", Respondent failed to answer.

V

In response to #27 of the 2002 application, which asked for an explanation of items 24 - 26, Respondent revealed only the conviction described in Paragraph VI below.

VI

On or about April 12, 1996, in the Sacramento Superior and Municipal Courts, Respondent was convicted of violation of California Vehicle Code Section 23152(a) (Driving Under the Influence of Alcohol), a crime involving moral turpitude and/or which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"),

///

1 to the qualifications, functions, or duties of a real estate
2 licensee.

3 VII

4 On or about March 30, 1999, in the Superior Court,
5 County of San Luis Obispo, State of California, Respondent was
6 convicted of violation of California Penal Code Section 415
7 (Fighting, Causing Loud Noise, or Using Offensive Words in
8 Public Place), a crime involving moral turpitude and/or which
9 bears a substantial relationship under Section 2910 of the
10 Regulations, to the qualifications, functions, or duties of a real
11 estate licensee.

12 VIII

13 On or about July 17, 2001, in the Superior Court of
14 California, County of Contra Costa, Walnut Creek, Respondent was
15 convicted of violation of California Vehicle Code Section 23103
16 per Section 23103.5 (Wet Reckless), a crime involving moral
17 turpitude and/or which bears a substantial relationship under
18 Section 2910 of the Regulations, to the qualifications, functions,
19 or duties of a real estate licensee.

20 IX

21 Respondent's failure to reveal the convictions set
22 forth in Paragraphs VII and VIII above in the 2002 application,
23 constitutes the attempt to procure a real estate license by
24 fraud, misrepresentation, or deceit, or by making a material
25 misstatement of fact in said application, which failure is cause
26 for denial of Respondent's application for a real estate license

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1 under Section 10177(a) of the California Business and
2 Professions Code.

3 X

4 The crimes of which Respondent was convicted, as
5 alleged in Paragraphs VI through VIII, above, constitute cause
6 for denial of Respondent's application for a real estate license
7 under Sections 480(a) and 10177(b) of the Code.

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

14
15 
16 E. J. HABERER II
Deputy Real Estate Commissioner

17 Dated at Oakland, California,
18 this 1st day of August, 2005.