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FILED

JAN 28 2010

DEPARTMENT OF REAL ESTATE

By R. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JOHN WILLIAM HERRMANN,

Respondent.

No. H-9511 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On September 6, 2006, in Case No. H-9511 SF, a Decision was rendered revoking the real estate salesperson license of Respondent effective September 28, 2006, 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 September 28, 2006, and Respondent has operated as a restricted licensee since that time.

On May 27, 2009, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. 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
2 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this
4 order:
5 1. Submittal of a completed application and payment of the fee for a real
6 estate salesperson license.
7 2. Submittal of evidence of having, since the most recent issuance of an
8 original or renewal real estate license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
10 license.

11 This Order shall become effective immediately.

12 DATED: 12/16/09

13 JEFF DAVIS
14 Real Estate Commissioner
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1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789
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FILED
SEP -7 2006

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-9511 SF
12)
13 JOHN WILLIAM HERRMANN,) OAH NO. N-2006030427
14) STIPULATION AND AGREEMENT
15 Respondent.) IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between JOHN WILLIAM
17 HERRMANN (Respondent) and his attorney of record, Thomas C.
18 Lasken, and the Complainant, acting by and through David B.
19 Seals, Counsel for the Department of Real Estate, as follows for
20 the purpose of settling and disposing of the Accusation filed on
21 February 6, 2006, in this matter:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be

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1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement in Settlement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. A Notice of Defense was filed on February 22, 2006
8 by Respondent, pursuant to Section 11505 of the Government Code
9 for the purpose of requesting a hearing on the allegations in
10 the Accusation. Respondent hereby freely and voluntarily
11 withdraws said Notice of Defense. Respondent acknowledges that
12 he understands that by withdrawing said Notice of Defense he
13 will thereby waive his right to require the Commissioner to
14 prove the allegations in the Accusation at a contested hearing
15 held in accordance with the provisions of the APA and that he
16 will waive other rights afforded to him in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interests of
22 expedience and economy, Respondent chooses not to contest these
23 allegations, but to remain silent and understands that, as a
24 result thereof, these factual allegations, without being
25 admitted or denied, will serve as a prima facie basis for the
26 disciplinary action stipulated to herein. The Real Estate

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1 Commissioner shall not be required to provide further evidence
2 to prove said factual allegations.

3 5. It is understood by the parties that the Real
4 Estate Commissioner may adopt the Stipulation and Agreement in
5 Settlement as his decision in this matter thereby imposing the
6 penalty and sanctions on Respondent's real estate licenses and
7 license rights as set forth in the below "Order". In the event
8 that the Commissioner in his discretion does not adopt the
9 Stipulation and Agreement in Settlement, it shall be void and of
10 no effect, and Respondent shall retain the right to a hearing
11 and proceeding on the Accusation under all the provisions of the
12 APA and shall not be bound by any admission or waiver made
13 herein.

14 6. The Order or any subsequent Order of the Real
15 Estate Commissioner made pursuant to this Stipulation and
16 Agreement in Settlement shall not constitute an estoppel, merger
17 or bar to any further administrative or civil proceedings by the
18 Department of Real Estate with respect to any matters which were
19 not specifically alleged to be causes for accusation in this
20 proceeding.

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations, admissions
23 and waivers and solely for the purpose of settlement of the
24 pending Accusation without a hearing, it is stipulated and
25 agreed that the facts alleged above are grounds for the
26 suspension or revocation of the licenses and license rights of

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Respondent JOHN WILLIAM HERRMANN under Sections 490 and 10177(b)
of the Code.

ORDER

All licenses and licensing rights of Respondent JOHN WILLIAM HERRMANN under the Real Estate Law are revoked;
provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

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1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions of
4 a restricted license until two years have elapsed from the
5 effective date of this Decision.

6 4. Respondent shall submit with any application for
7 license under an employing broker, or any application for
8 transfer to a new employing broker, a statement signed by the
9 prospective employing real estate broker on a form approved by
10 the Department of Real Estate which shall certify:

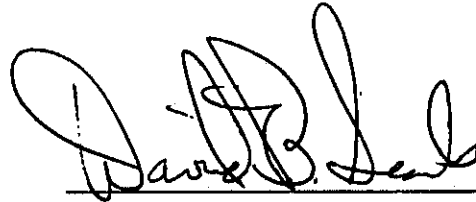
- 11 (a) That the employing broker has read the Decision
12 of the Commissioner which granted the right to a
13 restricted license; and
14 (b) That the employing broker will exercise close
15 supervision over the performance by the restricted
16 licensee relating to activities for which a real
17 estate license is required.

18 5. Respondent shall, within nine (9) months from the
19 effective date of this Decision, present evidence satisfactory
20 to the Real Estate Commissioner that Respondent has, since the
21 most recent issuance of an original or renewal real estate
22 license, taken and successfully completed the continuing
23 education requirements of Article 2.5 of Chapter 3 of the Real
24 Estate Law for renewal of a real estate license. If Respondent
25 fails to satisfy this condition, the Commissioner may order the
26 suspension of the restricted license until the Respondent
27 presents such evidence. The Commissioner shall afford Respondent

1 the opportunity for a hearing pursuant to the Administrative
2 Procedure Act to present such evidence.

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5 DATED:

July 25, 2006

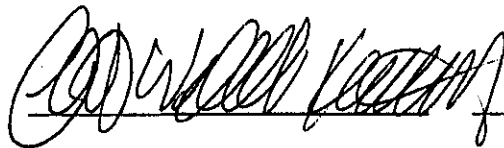


DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

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8 * * *

9 I have read the Stipulation and Agreement, have
10 discussed it with my counsel, and its terms are understood by me
11 and are agreeable and acceptable to me. I understand that I am
12 waiving rights given to me by the California Administrative
13 Procedure Act (including but not limited to Sections 11506,
14 11508, 11509, and 11513 of the Government Code), and I willingly,
15 intelligently, and voluntarily waive those rights, including the
16 right of requiring the Commissioner to prove the allegations in
17 the Accusation at a hearing at which I would have the right to
18 cross-examine witnesses against me and to present evidence in
19 defense and mitigation of the charges.

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21 DATED:



7-21-06

JOHN WILLIAM HERRMANN
Respondent

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1 * * *

2 I have reviewed the Stipulation and Agreement as to
3 form and content and have advised my client accordingly.
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6 DATED:

July 15, 2006

Thomas C. Lasken

THOMAS C. LASKEN
Attorney for Respondent

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9 * * *

10 The foregoing Stipulation and Agreement in Settlement
11 is hereby adopted by the Real Estate Commissioner as his
12 Decision and Order and shall become effective at 12 o'clock noon
13 on SEP 28 2006
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15 IT IS SO ORDERED

9-6-06

16 JEFF DAMI
Real Estate Commissioner

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1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)
7

FILED
FEB -6 2006

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of	)	No. H-9511 SF
12 JOHN WILLIAM HERRMANN,	)	<u>ACCUSATION</u>
13 Respondent.	)	
14	)	

15 The Complainant, E. J. Haberer II, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against JOHN WILLIAM HERRMANN (hereinafter
18 Respondent), is informed and alleges as follows:

19 I

20 The Complainant, E. J. Haberer II, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

24 Respondent is licensed and/or has license rights under
25 the Real Estate Law, Part 1 of Division 4 of the California
26 Business and Professions Code (hereinafter "Code") as a real
27 estate salesperson.

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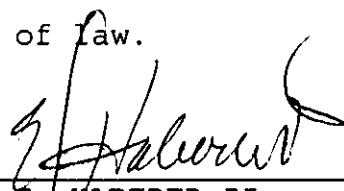
III

On or about March 8, 2004, in the Superior Court of California, County of San Mateo, Respondent was convicted of violation of California Penal Code Section 240 (Assault), a crime involving moral turpitude and/or which is substantially related under Section 2910, Title 10, California Code of Regulations (hereinafter the "Regulations") to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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


E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 17th day of January, 2006.