

FILED

SEP 30 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	Case No. H-10907 SF
)	OAH No. 2010050200
PENNY JO MARTIN,)	
)	<u>STIPULATION AND WAIVER</u>
Respondent.)	

It is hereby stipulated by and between PENNY JO MARTIN (hereinafter ("Respondent")) and Respondent's Attorney, Frank M. Buda, and the Complainant, acting by and through Kenneth C. Espell, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on April 19, 2010 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 the other allegations therein, or that he may in his discretion waive the hearing and grant Respondent a restricted real estate salesperson license. Respondent also understands that by filing the

1 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to
2 Respondent to make a satisfactory showing that Respondent meets all the requirements for
3 issuance of a real estate salesperson license. Respondent further understands that by entering
4 into this Stipulation and Waiver, Respondent will be stipulating that the Real Estate
5 Commissioner has found that Respondent has failed to make such a showing, thereby justifying
6 the denial of the issuance to Respondent of an unrestricted real estate salesperson license.

7 Respondent hereby admits that the allegations of the Statement of Issues filed
8 against Respondent are true and correct and requests that the Real Estate Commissioner in his
9 discretion issue a restricted real estate salesperson license to Respondent under the authority of
10 Section 10156.5 of the Business and Professions Code.

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

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

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

- 24 a. Respondent's conviction (including a plea of nolo contendere)
25 of a crime which bears a substantial relationship to Respondent's
26 fitness or capacity as a real estate licensee; or
27

///

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

5 2. Respondent shall notify the Commissioner in writing within 72 hours of
6 any arrest by sending a certified letter to the Commissioner at the
7 Department of Real Estate, Post Office Box 187000, Sacramento, CA
8 95818-7000. The letter shall set forth the date of Respondent's arrest, the
9 crime for which Respondent was arrested and the name and address of the
10 arresting law enforcement agency. Respondent's failure to timely file
11 written notice shall constitute an independent violation of the terms of the
12 restricted license and shall be grounds for the suspension or revocation of
13 that license.

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


19 4. With the application for license, or the application for transfer to a new
20 employing broker, Respondent shall submit a statement signed by the
21 prospective employing broker on a form approved by the Department of
22 Real Estate wherein the employing broker shall certify as follows:

23 a. That broker has read the Statement of Issues which is the basis for
24 the issuance of the restricted license; and,

25 b. That broker will carefully review all transaction documents
26

1 prepared by the restricted licensee and otherwise exercise close
2 supervision over the licensee's performance of acts for which a
3 license is required.

4 7/9/10
5 Dated


KENNETH C. ESPELL, Counsel
Department of Real Estate

6 ***

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

15 Respondent can dignify acceptance and approval of the terms and conditions of
16 this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by
17 Respondent, to the Department at fax number (916) 227-9458. Respondent agrees,
18 acknowledges and understands that by electronically sending to the Department a fax copy of her
19 actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the
20 Department shall be as binding on Respondent as if the Department had received the original
21 signed Stipulation and Waiver.

22 8/24/10
23 Dated


PENNY JO MARTIN, Respondent

24
25 ///

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

8-28-10

Dated


FRANK BUDA, 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.

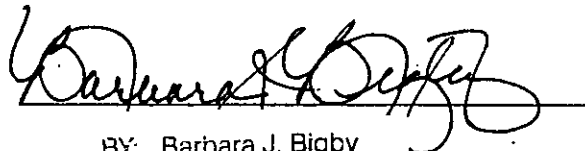
Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation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

This Order is effective immediately.

IT IS SO ORDERED

9/29/2010

Jeff Davi
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

APR 19 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

KENNETH C. ESPELL, Counsel (SBN 178757)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0868 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)
) NO. H-10907 SF
)
PENNY JO MARTIN,) STATEMENT OF ISSUES
)
Respondent.)

The Complainant, E. J. HABERER II, in his official capacity as a Deputy Real Estate Commissioner of the State of California, for this Statement of Issues against PENNY JO MARTIN, also know as Penny Jo Shepherd, Penny Jo Pollack and Penny Martin (hereinafter "Respondent"), is informed and alleges as follows:

1

On or about June 30, 2009, Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license.

2

On or about September 22, 2004 in the Shasta County Superior Court, State of California, Case Number 04-04327, Respondent was convicted of violating Section 4463(a)(2) of the California Vehicle Code (Possession of a False or Blank Registration), a misdemeanor 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.

Respondent's conviction, as alleged in Paragraph 2, 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.

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.



E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 6th day of April, 2010.