

Handwritten signature

FILED
JUN 22 2009
DEPARTMENT OF REAL ESTATE

Handwritten signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
TINA MARIE LEON,) No. H-29494 LA
Respondent.)

ORDER EXTENDING TIME

On March 20, 2003, a Decision was rendered herein
revoking Respondent's real estate salesperson license.

On May 23, 2007, Respondent petitioned for
reinstatement of said real estate salesperson license.

Effective July 7, 2008, Respondent's petition for
reinstatement was granted on certain terms and conditions. An
Order was issued that a restricted real estate salesperson
license would be issued to Respondent if Respondent satisfies the
following conditions within twelve months from the effective date
of the Order:

1. takes and passes the written examination required
to obtain a real estate salesperson license.

1 2. makes application therefore and pays the
2 appropriate fee for said license.

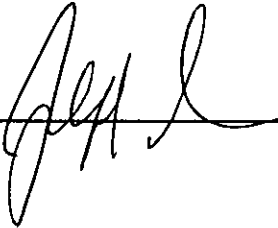
3 3. takes and passes the Professional Responsibility
4 Examination administered by the Department, including the payment
5 of the appropriate fee.

6 Good cause having been shown, the time during which
7 Respondent must complete the conditions described above is hereby
8 extended to November 6, 2009.

9 This Order shall be effective immediately.

10 DATED: 6-16, 2009

11 JEFF DAVI
12 Real Estate Commissioner

13 
14 _____
15
16
17
18
19
20
21
22
23
24
25
26
27

1

K. Wiederholt

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

In the Matter of the Accusation of) No. H-29494 LA
TINA MARIE LEON,)
Respondent.)

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

On March 20, 2003, a Decision was rendered herein
revoking Respondent's real estate salesperson license.

On or about May 23, 2007, Respondent petitioned for reinstatement of 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 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:

I

In the Decision which revoked Respondent's real estate license, there were Legal Conclusions made that there was cause to revoke Respondent's real estate license pursuant to Business and Professions Code ("Code") Sections 490 and 10177(b).

On or about April 30, 2001, Respondent was convicted of violating 18 United States Code, Section 1010 (fraud on a HUD program), a crime involving moral turpitude which is substantially related to the functions, qualifications and duties of a real estate licensee, pursuant to Section 2910, Title 10, Chapter 6, California Code of Regulations ("Regulations").

The underlying facts of said conviction were that Respondent submitted a loan application to the Department of Housing and Urban Development, which contained a gift letter she knew to be false and fabricated.

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

The Department has developed criteria in Title 10, Chapter 6, California Code of Regulations ("Regulation") 2911, to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

1 2911(a) and (k) - Respondent has not engaged in the
2 activity of a real estate licensee since her license was revoked.
3 Additional time is needed to assess Respondent's rehabilitation.
4 It has not been shown that Respondent has corrected business
5 practices resulting in injury to others or with the potential to
6 cause such injury.

7 Given the fact that Respondent has not established that
8 Respondent has complied with Regulations 2911(a) and 2911(k), I
9 am not satisfied that Respondent is sufficiently rehabilitated to
10 receive a real estate salesperson license.

11 NOW, THEREFORE, IT IS ORDERED that Respondent's
12 petition for reinstatement of Respondent's real estate
13 salesperson license is denied.

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

17 A restricted real estate salesperson license shall be
18 issued to Respondent pursuant to Code Section 10156.5 if
19 Respondent within twelve (12) months from the date hereof:

20 (a) takes and passes the written examination required
21 to obtain a real estate salesperson license.

22 (b) makes application therefor and pays the
23 appropriate fee for said license.

24 (c) takes and passes the Professional Responsibility
25 Examination administered by the Department, including the payment
26 of the appropriate fee.

27 ///

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

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

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

16 3. Respondent shall not be eligible to apply for the
17 issuance of an unrestrained real estate license nor for the
18 removal of any of the conditions, limitations or restrictions of
19 a restricted license until two (2) years have elapsed from the
20 effective date of this Decision.

21 4. Respondent shall submit with any application for
22 license under an employing broker, or with any application for
23 transfer to a new employing broker, a statement signed by the
24 prospective employing real estate broker on a form approved by
25 the Department which shall certify:

26 ///

27 ///

1 (a) That the employing broker has read the Decision of
2 the Commissioner which granted the right to a restricted license;
3 and

4 (b) That the employing broker will exercise close
5 supervision over the performance by the restricted licensee
6 relating to activities for which a real estate license is
7 required.

8 This Order shall become effective at 12 o'clock noon on
9 JUL - 7 2008

10 DATED: 6-11-08

11 JEFF DAVI
12 Real Estate Commissioner
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

G

/ / /

1 I have given due consideration to the petition of
2 Respondent. I find no good cause to reconsider the Decision
3 of March 20, 2003, and reconsideration is hereby denied.

4 IT IS SO ORDERED May 7, 2003

5 PAULA REDDISH ZINNEBANN
6 Real Estate Commissioner
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Paula Reddish Zinnemann



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
TINA MARIE LEON,)	NO. H-29494 LA
Respondent.)	L-2002060661

ORDER STAYING EFFECTIVE DATE

On March 20, 2003, a Decision was rendered in the above-entitled matter to become effective April 10, 2003.

IT IS HEREBY ORDERED that the effective date of the Decision of March 20, 2003, is stayed for a period of thirty (30) days.

The Decision of March 20, 2003, shall become effective at 12 o'clock noon on May 9, 2003.

DATED: March 27, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: _____

DOLORES RAMOS
Regional Manager



By CR

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-29494 LA
)	L-2002060661
TINA MARIE LEON,)	
)	
Respondent.)	

DECISION AFTER REJECTION

This matter came on for hearing before Roy W. Hewitt, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 23, 2002. Martha J. Rosett, Counsel, represented the Complainant, Maria Suarez, a Deputy Real Estate Commissioner for the State of California. The Respondent, TINA MARIE LEON (hereinafter "Respondent") appeared in person and was represented by Frank M. Buda, Esq. All evidence being received, the matter was deemed submitted for decision at that time.

//

//

1 On November 1, 2002, the Administrative Law Judge
2 submitted a Proposed Decision which I declined to adopt. My
3 Decision is set forth herein.

4 Pursuant to Section 11517(c) of the Government Code of
5 the State of California, Respondent was served with notice of my
6 determination not to adopt the Proposed Decision of the
7 Administrative Law Judge along with a copy of said Proposed
8 Decision. Respondent was notified that the case would be
9 decided by me upon the record, the transcript of proceedings
10 held on October 23, 2002, and upon any written argument offered
11 by Respondent and Complainant. Respondent submitted written
12 argument on January 31, 2003. Complainant submitted further
13 argument on February 20, 2003.

14 I have given careful consideration to the record in
15 this case including the transcript of the proceedings of
16 October 23, 2002. I have also considered the Arguments
17 submitted by Respondent and Complainant.

18 The following shall constitute the Decision of the
19 Real Estate Commissioner in this proceeding.

20 FINDINGS OF FACT

21 1. Complainant Maria Suarez filed the Accusation in
22 the above-captioned proceeding while acting in her capacity as a
23 Deputy Real Estate Commissioner of the Department of Real Estate
24 ("the Department"), State of California.

25 2. Respondent TINA MARIE LEON is currently licensed as
26 a real estate salesperson by the Department. She has been
27 licensed since 1991.

1 3. On April 30, 2001, in the United States District
2 Court for the Central District of California, in Case No. SA CR-
3 00- 1 56-GLT, Respondent was convicted on her plea of guilty to
4 violating Title 18 of the United States Code, Section 1010 (fraud
5 on a HUD program). By her plea, Respondent admitted submitting a
6 loan application to the Department of Housing and Urban
7 Development ("HUD") which contained a gift letter she knew to be
8 false and fabricated. (Respondent was sentenced on
9 April 30, 2001, which Judgment of conviction was entered into the
10 court records on May 17, 2001).

11 4. Respondent was sentenced to five years probation,
12 the terms of which included home detention for four months. She
13 was ordered to pay restitution of \$78,000.00. The Judgment and
14 Probation/Commitment Order specified that:

15 "A partial payment of \$6,000 shall be paid immediately. The
16 balance shall be due during the period of probation in
17 nominal monthly payments of at least \$1,200. These payments
18 shall begin 30 days after the commencement of supervision.
19 Nominal restitution payments are ordered as the court finds
20 that the defendant's economic circumstances do not allow for
21 either immediate or future payment of the amount ordered."

22 Other terms and conditions, standard to probation
23 grants, were imposed as well. Respondent was also required to
24 report this conviction to the Department of Real Estate within
25 thirty days. (It should be noted that this is a standard
26 requirement in loan fraud cases. HUD and the FBI can criminally
27 prosecute and prevent fraud in the processing of HUD loans.
However, only state licensing agencies, such as the Department of
Real Estate, can revoke a license to prevent fraud in connection
with all other loans and real estate transactions.)

1 5. As of the date of the hearing, Respondent had
2 completed a little more than one of the five years of probation,
3 which is scheduled to end in 2006. Respondent has paid
4 approximately \$2,000 of the ordered restitution, and testified
5 that she pays about \$25 a month. The last payment documented was
6 made in October of 2001. Although Respondent testified that she
7 disputes the basis for the court's restitution order, no formal
8 documentation indicating that the matter is formally under
9 consideration by the federal court has been provided in these
10 proceedings. The Judgment of Conviction and Sentencing and
11 Probation Order may not be collaterally attacked in these
12 administrative proceedings. Arneson v. Fox (1980) 28 Cal.3d 440,
13 452.

14 6. The facts and circumstances of the crime are
15 described as follows:

16 a) In July of 1997, Respondent submitted a loan
17 application package for a HUD loan on behalf of a borrower named
18 Dora Villatoro. This loan package contained a "gift letter"
19 stating that the borrower received a cash gift from a relative
20 toward the purchase of real property when, in fact, the gift
21 letter was false and Villatoro did not receive any such monetary
22 gift. The Information includes an allegation that Respondent
23 knew the "gift letter" was false. At the administrative hearing,
24 Respondent admitted to all the elements of the crime for which
25 she was convicted.
26

27 b) Respondent testified that she was caught as part of

1 an FBI investigation into transactions handled by a real estate
2 agent named Maria Olmos, who represented the sellers in the
3 Villatoro transaction. Respondent testified that since 1996, she
4 had worked on several loan transactions in which Maria Olmos
5 represented sellers of real property. At some point, Respondent
6 says she suspected something was not proper in the loans Maria
7 Olmos was involved in, many of which involved HUD loans and used
8 gift letters to document the sources of down payments. As a
9 result, Respondent says she stopped doing business with Maria
10 Olmos. Nonetheless, although one instance of submitting a false
11 gift letter formed the specific basis for Respondent's
12 conviction, that instance may not have been an isolated
13 occurrence.

14 7. At the administrative hearing, Respondent provided
15 documentation showing recent reconveyance of the subject
16 property, supporting her claim that the loan did not go into
17 default. Respondent said that she intends to petition the
18 criminal court to have the restitution condition of her probation
19 removed, but to date, Respondent has not done so. No
20 documentation was provided to reflect any modification of the
21 original terms of probation as set forth in Finding Number 4
22 above. Absent same, Respondent is still required to comply with
23 the terms of the judgment of conviction and sentencing.

24 8. Respondent is currently employed as a loan officer
25 at Mark 1 Mortgage, where she has worked since July of 2001. She
26 submitted two letters from her supervising broker, Mark Prather,
27 in support of her character and qualifications. Mr. Prather

1 provided a positive reference letter, describing Respondent's
2 professional reputation and the measures he takes to scrutinize
3 and supervise her work, in light of her conviction. However, Mr.
4 Prather did not testify at hearing and was therefore not
5 available for further questions and cross-examination. This
6 evidence is therefore given limited weight as "administrative
7 hearsay".

8 9. Respondent testified about her family life. She is
9 divorced and testified that she supports her three children, ages
10 21 (in college), 17 and 16. Respondent also provided one letter
11 from each of her children praising her, though she admitted that
12 none of them is aware of the full extent of her criminal
13 conviction.

14 10. Respondent submitted documentation in the form of
15 customer review surveys and a membership certificate in a real
16 estate trade organization to show that she is well respected in
17 her profession. None of the customers surveyed indicate an
18 awareness of Respondent's recent conviction for loan fraud. Nor
19 does Respondent's membership in an association of realtors
20 reflect any qualitative opinion on their part as to her
21 qualifications. Indeed, there is no indication that her
22 membership is contingent upon remaining free of complaints or
23 criminal convictions. This underscores the potential for the
24 public to be misled if Respondent is not properly disciplined.

25 11. No live character witnesses were called to testify
26 on behalf of Respondent.
27

LEGAL CONCLUSIONS

1 1. Respondent's conviction for HUD fraud constitutes a
2 crime of moral turpitude. That crime is substantially related to
3 the duties, qualifications, and functions of a real estate
4 licensee, based on Title 10, Chapter 6, California Code of
5 Regulations (hereafter "CCR"), Regulation 2910(a)(2), (a)(4) and
6 (a)(8).

7
8 2. Cause exists to suspend or revoke or otherwise
9 discipline the real estate salesperson license issued to
10 Respondent TINA MARIE LEON pursuant to Business and Professions
11 Code sections 490 and 10177(b), for her conviction of a crime of
12 moral turpitude.

13 3. Application of the Criteria for Rehabilitation set
14 forth in Regulation 2912 reveals the following:

15 (a) Less than two years have passed since Respondent's
16 conviction on April 30, 2001. It is reasonable to assume that
17 having recently been convicted of a very serious crime that is
18 directly related to her profession, an individual will do and say
19 anything to make things right, at least for a period of time.
20 Rehabilitation must be viewed over a period of time longer than
21 one or two years in a case such as this.

22 (b) Respondent has not complied with the terms of nor
23 completed restitution, and has provided documentation of
24 approximately \$2,000 of the \$78,000 ordered.

25 (c) Respondent's conviction has not been expunged.

26 (d) Regulation 2912(d) does not apply.

27 (e) Respondent has not completed probation. She has

1 completed less than two years of a five year term and remains on
2 probation until 2006.

3 (f) There is no evidence that Respondent's criminal
4 conduct was related to alcohol or drug abuse, so Regulation
5 2911(f) does not apply.

6 (g) Fines have been paid.

7 (h) Respondent provided letters from her new employing
8 broker, Mark Prather, to corroborate her testimony that her
9 business practices have become more stringent in terms of
10 reviewing loan documentation and avoiding suspect transactions.

11 (i) Respondent testified that she does not associate
12 or do business with the specific individuals involved in the
13 illegal transaction.

14 (j) Respondent provided letters of support from her
15 children, ages 21, 17 and 16. All three children corroborate
16 Respondent's testimony that she financially and emotionally
17 supports them. However, these letters do not address the
18 criminal conviction, since Respondent has not told them about
19 this.

20 (k) Respondent has taken and completed additional
21 courses in real estate since her conviction.

22 (l) With regards to community activities, Respondent
23 attends church regularly with her children. She volunteers for a
24 program that provides gifts and meals for the needy.

25 (m) With regards to change in attitude, Respondent
26 testified that she recognizes falsifying information in loan
27 packages and in allowing false information to be submitted is

1 wrong. Respondent testified that of her own accord, she
2 dissociated herself from other real estate professionals who made
3 a pattern or practice of illegal conduct. Prior to being
4 contacted by the FBI, Respondent testified that she became
5 suspicious of Maria Olmos' loan packages and practices and
6 stopped doing business with her. She reported other suspect
7 activity to her manager and to HUD. Respondent was less forth-
8 coming as to her own participation over a period of time in
9 submitting loan packages to lenders which may have contained
10 false documentation.

11 1) Respondent did not provide any live witnesses in
12 support of her character and qualifications. Other than the
13 letter from her broker, the other documents offered as
14 administrative hearsay do not reflect an awareness on the part of
15 the authors that Respondent was recently convicted of loan fraud.
16 The letter from the manager of the company she was working for at
17 the time of her criminal conduct was not addressed to these
18 licensing proceedings and does not explain why Respondent is no
19 longer working for that company.

20 2) Respondent's documentation regarding her recent top
21 producer, "Million Dollar Funder" status, calls into question the
22 limited amount of restitution she has made.

23 3) It is unfortunate that Respondent believes grounds
24 may have existed for her to have obtained a lesser restitution
25 amount. However, no appeals have been documented. Moreover,
26 Respondent's sense of unfairness does not alleviate her from her
27 legal obligations to comply with the terms of her probation,

including restitution payments.

4. Honesty and integrity are crucial among the qualifications to be a real estate licensee and to handle the tremendous fiduciary responsibilities such licensure carries with it. Having been convicted of loan fraud, based on an admission of factual guilt, Respondent's character and fitness have been called into question. A period of time longer than two years free of misconduct is necessary to establish rehabilitation.

5. The Administrative Law Judge made it clear that the Department has met its burden in establishing that grounds exist to revoke or otherwise discipline Respondent's real estate license. The degree of discipline rests solely with the Commissioner (Golde v. Fox (1979) 98 Cal.App.3d 167, 178). Respondent's conviction, and the totality of the circumstances surrounding it, call into question her integrity and honesty necessary to carry out her fiduciary responsibilities to the public. While failure to meet even one of the enumerated criteria for rehabilitation would be sufficient to support an order revoking a license, in this case, Respondent has failed to meet many of these criteria. Respondent failed to demonstrate that the public interest would adequately be protected by allowing her to continue to hold any form of real estate license at this time.

6. I disagree with the Administrative Law Judge's opinion that the public interest would adequately be protected if Respondent is granted rights to a restricted license. After Respondent has spent a period of time without the supervision of

1 the criminal justice system, her actions can be again evaluated
2 and her level of rehabilitation can be more accurately
3 determined. California courts have placed limited weight on the
4 fact that a licensee did not commit additional crimes while in
5 prison, or while on parole or probation, since persons under the
6 direct supervision of correctional authorities are required to
7 behave in an exemplary fashion (See In re Menna (1995) 11 Cal.4th
8 975; Seide v. Committee of Bar Examiners (1989) 49 Cal.3d 933; In
9 re Gossage (2000) 23 Cal.4th 1080.). In this case, Respondent
10 has been remiss in her restitution without having obtained
11 authorization from the supervising court relieving her of this
12 obligation.

13 In short, there is insufficient evidence upon which to
14 base a determination that the public would be adequately
15 protected by the issuance of a restricted license to Respondent
16 at this time.


17 ORDER

18 All licenses and licensing rights of Respondent TINA
19 MARIE LEON under the Real Estate Law are revoked.

20 This Decision shall become effective at 12 o'clock noon
21 on April 10, 2003.

22 IT IS SO ORDERED March 20, 2003.

23
24
25 PAULA REDDISH ZINNEMANN
26 Real Estate Commissioner

27 

- 11 - BY: John R. Liberator
Chief Deputy Commissioner

File

FILED
DEC 4 2002
DEPARTMENT OF REAL ESTATE

By Laura B. Brown

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

In the Matter of the Accusation of)	No. H-29494 LA
TINA MARIE LEON,)	
)	L-2002060661
)	
)	
<u>Respondent.</u>)	

NOTICE

TO: TINA MARIE LEON, Respondent, and FRANK M. BUDA, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated November 1, 2002, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated November 1, 2002, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on October 23, 2002, and any written argument hereafter submitted on behalf of Respondent and Complainant.

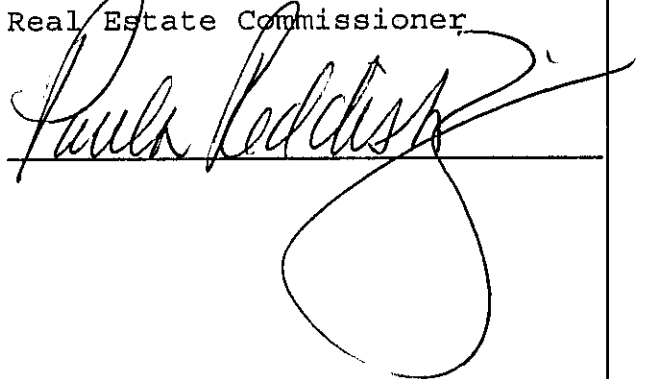
1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of October 23, 2002, at the Los Angeles office
4 of the Department of Real Estate unless an extension of the time
5 is granted for good cause shown.

6 Written argument of Complainant to be considered by me
7 must be submitted within 15 days after receipt of the argument of
8 Respondent at the Los Angeles office of the Department of Real
9 Estate unless an extension of the time is granted for good cause
10 shown.

11 DATED:

November 26, 2002

12
13 PAULA REDDISH ZINNEMANN
14 Real Estate Commissioner

15 
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TINA MARIE LEON,

Respondent.

OAH NO. L-2002060661

CASE NO. H-29494 LA

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge ("ALJ"), Los Angeles Office of Administrative Hearings, at Los Angeles, California on October 23, 2002.

Department of Real Estate Counsel, Martha J. Rosett, represented complainant.

Respondent, Tina M. Leon, personally appeared at the hearing and was represented by Frank M. Buda, Esq.

Oral and documentary evidence was received and the matter was submitted.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. The Accusation was made and filed by Maria Suarez, in her official capacity as a Deputy Real Estate Commissioner, Department of Real Estate, State of California ("the Department").

2. On April 10, 1991, the Department issued respondent, Tina M. Leon, a real estate salesperson's license. At all relevant times, that license was, and currently is, in full force and effect.

3. On May 17, 2001, in the United States District Court, Central District of California, in Case number SACR00-105-GLT, respondent pled guilty to one count of violating 18 U.S.C. 1010 (HUD Program Fraud), a crime of moral turpitude substantially related to the qualifications, functions and duties of a real estate salesperson.

The facts underlying respondent's conviction are as follows: During July of 1997, respondent submitted a loan application package for an HUD loan. The

application package for the Federal HUD loan from Temple-Inland Mortgage Corporation, contained a "gift letter" stating that the borrower, Dora Villatoro, received a cash gift from a relative toward the purchase of real property when, in fact, the gift letter was false and borrower Dora Villatoro did not actually receive any such monetary gift. The Information further alleges that respondent knew the "gift letter" was false. Since the Information provides the factual basis for respondent's guilty plea, the ALJ must accept that for purposes of resolving the criminal matter respondent admitted that she knew the "gift letter" was false.

On April 30, 2001, respondent was sentenced¹ to five years probation on certain terms and conditions, including: Four months of home detention; 250 hours of community service; Restitution in the amount of \$78,000; and Payment of fines and penalties.

4. Respondent immediately and appropriately notified the Department about her conviction and cooperated openly and fully with the Department at all stages of the review process, including completing the Department's "Confidential-Report of Interview" and participating in the October 10, 2001 interview process.

5. Although respondent was first licensed by the Department as a salesperson in 1991, she has been involved in the "Mortgage field", while working for banks, for the past 20 years. She has no other record of criminal activity or license discipline.

6. Currently, respondent works for Mark 1 Mortgage. Mr. Mark Prather, the president of Mark 1 knows about respondent's conviction. In Mr. Prather's letter of support, dated October 21, 2001, Mr. Prather states:

"Tina Leon started at our company on July 6, 2001. Since this time she has been exemplary, and there have been no issues regarding the integrity of her loans.

When joining our company, we were aware of issues on her past loans. As a result we Quality Controlled a random sampling of her loans, with no significant findings in her files.

Additionally, she has shown good performance on her loans, and no issues have arisen from lenders, since her start at our company.

¹ Although the accusation alleges that the date of respondent's conviction was May 17, 2001, the actual date of conviction was April 30, 2001. This is so because in criminal proceedings the date of sentencing is considered the "date of conviction"; not the date the plea is entered or the finding of guilt is made after jury trial.

In conclusion, if the Department of Real Estate decides to place Tinal on a restricted license, we would continue to be comfortable employing her, based on her satisfactory results at Mark 1 Mortgage over the past 15 months." (Exhibit A.)

Mark 1 Mortgage has a full-time auditor and respondent's files are constantly reviewed.

7. Respondent is a single mother who provides the sole support for her three children, ages 21 (a college student), 17 and 16. Her children are high achievers and respondent and her children are active in church activities.

Respondent needs her salesperson's license to maintain her employment with Mark 1 Mortgage and to be able to continue to provide for herself and her children. Respondent has no training or experience in any other field that can provide enough income to support herself and her children.

8. Respondent entered a plea of guilty to the charge of HUD fraud based on the advice of her appointed defense attorney and to avoid the costs associated with going to trial even though she had a defensible case based on her actual lack of knowledge that the "gift letter" involved was false. In actuality, at the time of the transaction that formed the basis of respondent's criminal conviction, although respondent did not actually know the "gift letter" was false, respondent suspected that something inappropriate was going on at the company where she worked. It seemed to respondent that there was a disproportionate number of "gift letters" in client files at the company. She had the feeling "something was not right"; Consequently, in 1997, respondent stopped doing business with Maria Almos, the realtor responsible for the loan scheme. Later, when contacted by the FBI, respondent cooperated fully with the agents in their investigation.

9. The loan that formed the basis of respondent's conviction funded. There were never any problems with the loan and the loan was never in default. Nonetheless, in the criminal proceedings, the attorneys assumed that since the loan amount was \$70,000, there was damage/loss to someone of that amount of money. In actuality there was no loss². Respondent has retained another attorney to represent her in Federal court in an attempt to get the restitution order corrected. Nonetheless, respondent has kept current on her court ordered restitution payments.

² In addition to respondent's testimony on this issue, the ALJ also considered Exhibit J, the letter from her criminal attorney, John Yzurdiaga, to further clarify and explain respondent's direct testimony on this issue. In that letter, Mr. Yzurdiaga states, in pertinent part: "Since the sentencing date, we have learned that the loan which they say resulted in the \$78,000 loss, is a no loss loan."

10. The ALJ finds that respondent's conviction was for conduct that occurred over five years ago, and was for conduct that was "situational" in nature without likelihood of reoccurrence.

Respondent has paid the fines imposed as a result of her conviction, she has changed her business practices³, she no longer associates with the realtor who got her in trouble (in fact she provided information to authorities that aided them during their investigation of the realtor), and, she is extremely remorseful; She is "very sorry, it [the conviction] affected her entire life and the lives of her children. I would never do anything remotely like this again. I am very, very conservative now." Respondent is "very ashamed and embarrassed-beyond embarrassment." She feels "dirty".

11. Respondent does not drink or abuse drugs. She completes 45 hours of continuing real estate education per year, and has successfully completed a Fannie Mae "Homeownership Workshop" and a "CalPERS Member Home Loan Program Advanced Training Seminar."

12. Based on a review of the documents supplied by respondent in conjunction with her testimony, the ALJ finds that respondent is well respected in her field. Customer/client surveys reveal that her clients are very satisfied with respondent's services. Respondent has received numerous awards for her job performance and has always been a "top producer".

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. Based on Finding 3, cause exists for discipline of respondent's license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b).

2. Based on mitigating evidence and evidence of rehabilitation set forth in Findings 4, 5, 6, 7, 8, 9, 10, 11, and 12, and the fact that respondent's current employer is willing to supervise respondent if she is placed on restriction, the ALJ concludes it would not be adverse to the public interests to place respondent on restriction by revoking her current license, staying the revocation and granting respondent a restricted license.

///

///

///

///

///

³ As has HUD. Now, if someone submits a "gift letter" they must provide a complete "paper trail" verifying the source and amount of the "gift" money.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

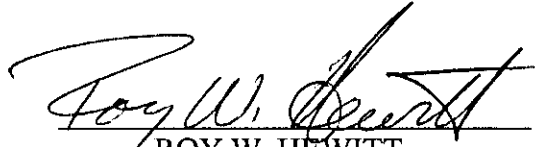
All licenses and licensing rights of Respondent, Tina M. Leon, under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor 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.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. 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:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and,
 - (b) 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.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate

NOT RECORDED

Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: November 1 , 2002.


ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation

TINA MARIE LEON,

Respondent(s).

Case No. H-29494 LA
OAH No. L-2002060661

FILED
SEP 19 2002
DEPARTMENT OF REAL ESTATE

Laura B. Chene

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on OCTOBER 23, 2002, at the hour of 9:00 a.m., 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: September 19, 2002

DEPARTMENT OF REAL ESTATE

By:

Martha J. Rosett
MARTHA J. ROSETT, Counsel

cc: Tina Marie Leon
Mark 1 Mortgage
Frank M. Buda, Esq.
Sacto., OAH

RE Form 501 (Rev. 8-97) MJR:lbo

Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILE
JUL 16 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation

) Case No. H-29494 LA

TINA MARIE LEON,

) OAH No. L-2002060661

)
)
)
Respondent(s).)

Laura B. Leon

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on AUGUST 30, 2002, at the hour of 9:00 a.m., 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: July 16, 2002

DEPARTMENT OF REAL ESTATE

By:

Martha J. Rosett

MARTHA J. ROSETT, Counsel

cc: Tina Marie Leon
Mark 1 Mortgage
Sacto., OAH

RE Form 501 (Rev. 8-97) MJR:lbo

Handwritten signature/initials

FILED
MAY 16 2002
DEPARTMENT OF REAL ESTATE
Handwritten signature: Laura B. Clon

MARTHA J. ROSETT, Counsel (SBN #142072)
Department of Real Estate
320 West Fourth St. #350
Los Angeles, CA 90013-1105

(213) 576-6982
(213) 576-6914

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-29494 LA
)
TINA MARIE LEON,) A C C U S A T I O N
)
Respondent.)

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against TINA MARIE LEON, aka Tina Marie Chavez ("Respondent")
alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation in
her official capacity.

2.

Respondent is presently licensed and has license
rights under the Real Estate Law (Part 1 of Division 4 of the
California Business and Professions Code, hereinafter "Code") as

1 a real estate salesperson.

2 3.

3 On or about May 17, 2001, in the United States
4 District Court, Central District of California, in Case No.
5 SACR00-105-GLT, Respondent was convicted of one count of
6 violating 18 U.S.C. 1010 (fraud on a HUD program), a crime of
7 moral turpitude which is substantially related to the
8 qualifications, functions and duties of a real estate
9 licensee. Respondent was sentenced to five years probation,
10 the terms and conditions of which included four months home
11 detention, 250 hours of community service, restitution in the
12 amount of \$78,000, and payment of fines and penalties.

13 4.

14 The facts and circumstances leading to Respondent's
15 conviction for fraud were as follows:

16 Respondent submitted a loan application package for
17 a Federal Housing Administration loan from Temple-Inland
18 Mortgage Corporation which contained information and
19 documentation Respondent knew to be false.

20 5.

21 Respondent's conviction as set forth in Paragraph 3
22 above constitutes grounds to discipline Respondent's license
23 and license rights pursuant to Code Sections 490 and 10177(b).

24 //

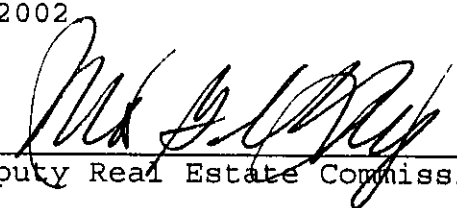
25 //

26 //

27 //

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of TINA
5 MARIE LEON, under the Real Estate Law and for such other and
6 further relief as may be proper under applicable provisions of
7 law.

8 Dated at Los Angeles, California
9 this 13th day of May, 2002.

10
11 
12 Deputy Real Estate Commissioner
13
14
15
16
17
18
19
20

21 cc: Tina Marie Leon
22 Mark 1 Mortgage Corporation
23 Sacto.
24 Maria Suarez
25 LWA
26
27