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FILED
NOV 24 2010

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

TROY LAMONT PETERS,

Respondent.

No. H-30314 LA

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

On September 2, 2004, the Decision revoking Respondent's real estate broker license was rendered. On or about June 25, 2008, Respondent petitioned for reinstatement of Respondent's real estate broker license. 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 broker license, in that:

I

Respondent was involved in conduct involving dishonest dealings.

II

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

Regulation 2911(k) – correction of business practices

Respondent has not provided such proof. Respondent has been out of the business since his license was revoked.

Given the fact that Respondent has not established that Respondent has complied with Regulation 2911(k) I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

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

I am satisfied, however, that it will not be against the public interest to issue a restricted real estate broker license to Respondent.

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

(a) qualifies for, takes and passes the written examination required to obtain a real estate broker license;

(b) makes application and pays the appropriate fee for said license;

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

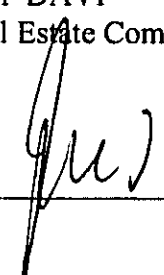
1 1. The restricted license issued to Respondent may be suspended prior to hearing
2 by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of
3 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a
4 real estate licensee.

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

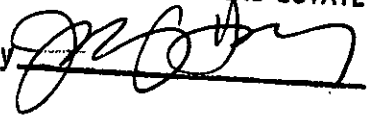
9 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
10 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
11 restricted license until two (2) years have elapsed from the effective date of this Decision.

12 This Order shall become effective at 12 o'clock noon on DEC 14 2010

13 IT IS SO ORDERED 9-15-2010

14 _____
15 JEFF DAVIS
16 Real Estate Commissioner
17 
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27

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 10 2004
DEPARTMENT OF REAL ESTATE
By 

* * * * *

In the Matter of the Accusation of)	No. H-30314 LA
)	
TROY LAMONT PETERS,	)
)	L-2004010048
)	
Respondent.	)
_____	)

DECISION

The Proposed Decision dated July 23, 2004,
of the Administrative Law Judge of the Office of
Administrative Hearings, is hereby adopted as the Decision
of the Real Estate Commissioner in the above-entitled
matter.

This Decision shall become effective at 12 o'clock
noon on September 30, 2004.

IT IS SO ORDERED Sept. 2, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 25 2004
DEPARTMENT OF REAL ESTATE

By 

In the Matter of the Accusation of:

TROY LAMONT PETERS,

Respondent.

Case No. H-30314 LA

OAH No. L2004010048

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on March 3, 2004.

Darlene Averetta, Real Estate Counsel, represented the Complainant.

Charles Benninghoff, Advocate, represented the Respondent.

Oral and documentary evidence and evidence by way of official notice was received. At the request of the parties the record was originally held open to dates as follows:

April 16, 2004, for receipt of further documentary evidence of the parties.

April 30, 2004, for receipt of objections, if any, to any proffered documents:

By stipulation of the parties and in the interest of justice the "hold open" date was extended to June 30, 2004.

Documents were received on dates as follows:

March 29, 2004: Complainant filed certified documents from the Office of Real Estate Appraisers which were marked and received as exhibit 5. As of June 30, 2004 Respondent did not proffer any additional documentary evidence and filed no objection to exhibit 5. Accordingly, the exhibit 5 was admitted into evidence and the case was deemed submitted on June 30, 2004.

The Administrative Law Judge now finds, concludes, and orders as follows:

FINDINGS OF FACT

1

Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the Department of Real Estate of the State of California, brought the Accusation in her official capacity.

2

At all times mentioned herein Respondent was and still is licensed as a real estate broker by the Department.

3

On May 7, 2003, in the Superior Court of the State of California for the County of Los Angeles, in case number YC 044273, a Judgment for Quiet Title and Money Damages was entered against Respondent. The Judgment was entered after the Court conducted a default hearing in the matter. The Judgment is, in part, based on findings that Respondent, as a real estate broker and acting in his capacity as a real estate broker in relation to a transaction for which a real estate license was required, defrauded the plaintiff in the course of that real estate transaction. Judgment in the sum of \$20,377.85, plus interest and court costs, was entered against Respondent. To date, the Judgment remains unsatisfied. The Judgment is a final Judgment.

That Judgment found as follows:

1. Defendant, Troy Peters, a real estate broker acting in his capacity as a real estate broker in relation to a transaction for which a real estate license was required, in concert with Defendant Escrow Department A.K.A. Escrow Division defrauded the plaintiff in the course of said real estate transaction for the sale of the plaintiff's home commonly known as 946 Alpha Street, Inglewood, CA 9030.
2. Defendants Troy Peters and Escrow Department, A.K.A. Escrow Division fraudulently signed a deed transferring the subject property from the plaintiff to Barbara Muhammed to facilitate their fraudulent scheme.

That Judgment adjudged and decreed as follows:

1. On plaintiff's causes of action (for) breach of contract, misrepresentation and fraud, plaintiff is awarded a money judgment as and against Troy Peters and Escrow Department A.K.A. Escrow Division jointly and severally in the sum of \$20,377.85 with interest at the rate of 10% per annum from January 5, 2001 in the sum of \$4641.04 with court costs in the sum of \$300.00, with interest on all sums awarded at the legal prevailing rate from the date of the judgment.

2. The court also awards judgment to Cross Complaint (sic) Equity One, Inc. on their cross complaint for quiet title as against the defendant pursuant to the stipulation of the Plaintiff, Frederick Burnett and Cross Complainant Equity One, Inc. Title to that certain real estate commonly known as 946 Alpha Street, Inglewood, CA 90303.

4

(A) Effective July 29, 2002, before the Office of Real Estate Appraisers (OREA), State of California, in Case Nos. C-010123-06 and C-010703-02, Respondent's Real Estate Appraiser's license was disciplined pursuant to Business and Professions Code (BPC) §§11313 through 11319 for violations of the Uniform Standards of Professional Appraisal Practice (USPAP). Among other things Respondent was ordered to pay a fine in the amount of \$3,000 to the OREA and he was ordered to complete a fifteen hour course within one year of the effective date of said Decision. Said discipline was based, in part, on the following findings by OREA:

(1) Respondent violated the conduct section of the Ethics Provisions governing his activities as a real estate appraiser when he generated an overvalued appraisal.

(2) Respondent violated the Uniform Standards of USPAP Rule 1-1(c) by carelessly and negligently performing appraisal services.

(3) In aggravation, the Decision found that Respondent's license had been previously disciplined by the Office of Real Estate Appraisers.

(B) Respondent's conduct giving rise to discipline consisted of, in sum, the following: failure to accurately describe key legal and economic factors pertinent to the subject properties; failure to disclose and analyze a pending sales agreement for the subject property at a significantly lower amount than the appraised value; commission of a series of errors in the Sales Comparison Approach including the incorrect reporting of the comparable sales' amenities, and the failure to adjust for superior comparable amenities.

5

The prior discipline referenced in Finding 4(A)(3) was based on Respondent's failure to disclose that a certain property was listed at \$845,000 on the effective date of the appraisal and estimated the value of that property at \$1,450,000. A Citation was issued including Private Reprimand; \$1,000 fine; USPAP training, and 30 hours of basic education in the topic areas of Property Description and Valuation Process. The Final Order on Citation was signed January 31, 2000.

The Judgment set forth in Finding 3 is recent and involves fraudulent conduct. The action of another State Agency – the Office of Real Estate Appraisers (OREA) – is recent and involves, at a minimum, ethical shortcomings and negligence. The fraudulent conduct demonstrates recent acts of dishonesty and a present lack of integrity. The negligent conduct demonstrates a present lack of trustworthiness.

Respondent's conduct as evidenced by the Judgment and by OREA action demonstrates that Respondent, acting as a Real Estate Broker, presents a risk to the consuming public. Respondent proffered no evidence that he can act under real estate licensure without risk to the public in that he failed to establish that he has satisfied the judgment and, separately, that he is rehabilitated from the fraudulent conduct and the ethical misconduct.

CONCLUSIONS OF LAW

These proceedings are brought under the provisions of §10100, Division 4 of the Business and Professions Code (BPC) and §§11500 through 11528 of the Government Code.

Respondent cannot collaterally attack the Judgment: *California Real Estate Loans, Inc. v. Wallace* 18 Cal.App.4th 1575. *Wallace* at 1582:

When an accusation is based on disciplinary charging statutes that condition discipline upon a wrongful act or omission by a licensee, the act or omission must be proved at an administrative hearing. But when an accusation is based on §10177.5 (*see infra*), the express language of the statute makes the judgment itself the operative fact upon which the disciplinary action is imposed, not the acts or omissions of the licensee which led to that judgment. Thus, if the elements of fraud have been proved in the civil action, collateral estoppel principles bar the licensee from attempting to relitigate those facts at the administrative proceeding. (*Richards v. Gordon* (1967) 254 Cal.App.2d 735, 737-741 [62 Cal.Rptr. 466]; *see also Deas v. Knapp* (1981) 29 Cal.3d 69, 78-79 [171 Cal.Rptr. 823, 623 P.2d 775].)

3

BPC §10177.5 provides as follows:

When a final judgment is obtained in a civil action against any real estate licensee upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required under this division, the commissioner may, after hearing in accordance with the provisions of this part relating to hearings, suspend or revoke the license of such real estate licensee.

4

Cause exists for discipline of Respondent's license for violation of BPC §10177.5 by reason of Finding 3.

5

BPC §10177(f) provides as follows:

The commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

- (f) A acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license.

- - -

6

Separate cause exists for discipline of Respondent's license for violation of BPC §10177(f) by reason of Finding 4.

7

The objective of an administrative proceeding relating to discipline, if any, is to protect the public; to determine whether a license holder has exercised his privilege in derogation of the public interest. Such proceedings are not for the primary purpose of punishment: *Fahmy v. MBC* (1995) 38Cal.App.4th 810; *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng. Rep. 1385. Certain of that public interest is set forth in the rationale of *Harrington v. Department of Real Estate* 214 Ca.App.3rd 394.

5

... As the Administrative Law Judge accurately noted. "One's character trait for honesty and integrity is an important qualification to be a real estate salesperson inasmuch as clients rely on the licensee's integrity in representing them, disclosing important facts about the properties he is privy to and holding monies in a fiduciary capacity." The public exposing itself to a real estate licensee has reason to believe the licensee must have demonstrated a degree of honesty and integrity in order to have obtained a license. (*Golde v. Fox, supra, 98 Cal.Ap. 3rd at p. 178*). Neither the trial court nor the ALJ abused its discretion in concluding appellant failed to demonstrate successful rehabilitation.

The order which follows is consistent with that rationale and with the public interest.

ORDER

All licenses and license rights of Respondent Troy Lamont Peters under the *Real Estate Law (Part 1 of Division 4 of the Business and Professions Code)* are hereby revoked.

Dated: 23 July 2004


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

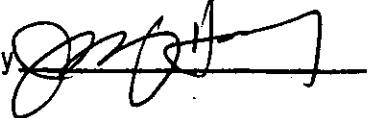
In the Matter of the Accusation of)
TROY LAMONT PETERS,)
Respondent.)

Case No. H-30314 LA

OAH No. L-2004010048

FILED
FEB 5 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By 

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, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, MARCH 3, 2004, at the hour of 1:30 P.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 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.

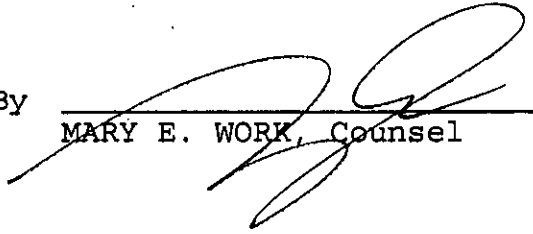
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real 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: February 5, 2004

By


MARY E. WORK, Counsel

cc: Troy Lamont Peters
Sacto.
OAH

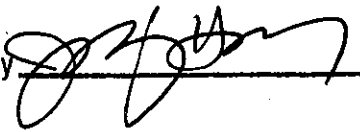
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1 MARY E. WORK, Counsel
SBN 175887
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone (213) 576-6982
-Direct- (213) 576-6916
5
6
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FILED
SEP 11 2003

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-30314 LA

12 TROY LAMONT PETERS,)

ACCUSATION

13 Respondent.)

14
15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against TROY LAMONT PETERS (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, Maria Suarez, a Deputy Real Estate
21 Commissioner of the State of California Department of Real Estate
22 (hereinafter "Department"), makes this Accusation in her official
23 capacity.

24 II

25 At all times mentioned herein, Respondent was and still
26 is licensed as a real estate broker by the Department.

27 ////

1 FIRST CAUSE OF ACTION
2 (VIOLATION OF B & P CODE SECTION 10177.5)

3 III

4 On or about May 7, 2003, in the Superior Court of the
5 State of California for the County of Los Angeles, in case number
6 YC 044273, Judgment For: Quiet Title and Money Damages was
7 entered against Respondent. Said Judgment was entered after the
8 Court conducted a default prove up in the matter. Said Judgment
9 is, in part, based on findings that Respondent, as a real estate
10 broker acting in his capacity as a real estate broker in relation
11 to a transaction for which a real estate license was required,
12 defrauded the plaintiff in the course of said real estate
13 transaction. Judgment in the sum of \$20,377.85 plus interest and
14 court costs was entered against Respondent. To date, said
15 Judgment remains unsatisfied.

16 IV

17 The facts set forth above in paragraph III constitute
18 cause under Section 10177.5 of the Business and Professions Code
19 for suspension or revocation of all licenses and license rights
20 of Respondent under the Real Estate Law.

21 V

22 SECOND CAUSE OF ACTION
23 (DISCIPLINE OF ANOTHER LICENSE ISSUED BY THE STATE)

24 Effective July 29, 2002, Before the Office of Real
25 Estate Appraisers, State of California, in Case No.s C-010123-06
26 and C-010703-02, Respondent's Real Estate Appraiser's license was
27 disciplined pursuant to Business and Professions Code Sections

1 11313 through 11319 for violations of the Uniform Standards of
2 Professional Appraisal Practice ("USPAP"). Among others things,
3 said license was suspended for a period of fifteen days;
4 Respondent was ordered to pay a fine in the amount of \$3,000 to
5 the Office of Real Estate Appraisers and he was ordered to
6 complete a fifteen hour course within one year of the effective
7 date of said Decision. Said discipline was based in part on
8 findings that:

9 1. Respondent violated the Conduct section of the
10 Ethics Provisions governing his activities as a real estate
11 appraiser when he generated an overvalued appraisal.

12 2. Respondent violated the Uniform Standards of USPAP
13 Rule 1-1(c) by carelessly and negligently performing appraisal
14 services.

15 3. In aggravation, the Decision found that
16 Respondent's license had been previously disciplined by the
17 Office of Real Estate Appraisers.

18 VI

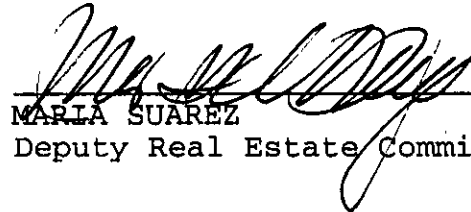
19 The discipline of Respondent's Real Estate Appraiser
20 license constitutes grounds under Section 10177(f) of the
21 Business and Profession Code to discipline his real estate broker
22 license.

23 FACTS IN AGGRAVATION

24 The prior discipline described above in Paragraph V,
25 subsection 3, was based on Respondent's failure to disclose that
26 the subject property was listed at \$845,000 on the effective date
27 of the appraisal and estimated the value of said property at

1 \$1,450,000. A Citation was issued including Private Reapproval;
2 \$1,000 fine; 15 hour USPAP, and 30 hours of basic education in
3 the topic areas of Property Description and Valuation Process.
4 The Final Order on Citation was signed January 31, 2000.

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

12
13
14 
15 MARIA SUAREZ
16 Deputy Real Estate Commissioner

17 Dated at Los Angeles, California,
18 this 10th day of September, 2003.

19
20
21
22
23 cc: Troy Lamont Peters
24 Maria Suarez
25 SACTO
26 LA
27