

FLAG

FILED

SEP 24 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of  
ANITA ACKER,  
Respondent.

No. H-32265 LA

ORDER DENYING REMOVAL OF RESTRICTIONS ON LICENSE

On November 16, 2005, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, 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 January 26, 2006 and Respondent has been licensed as such since that time.

On May 19, 2008, Respondent petitioned for removal of the restrictions on said real estate salesperson license.

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).

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1 I have considered Respondent's petition and the evidence and arguments in  
2 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has  
3 undergone sufficient rehabilitation to warrant the removal of the restrictions on Respondent's real  
4 estate salesperson license at this time.

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

8 Regulation 2911(c) Expungement of criminal convictions resulting from immoral  
9 or antisocial acts.

10 On February 6, 1998, in United States District Court, Las Vegas, Nevada,  
11 Respondent was convicted of Bank Fraud in violation of 18 USC Section 1344. This conviction  
12 is not subject to expungement.

13 Regulation 2911(i) Completion of, or sustained enrollment in, formal educational  
14 or vocational training courses for economic self-improvement.

15 Respondent has not submitted evidence demonstrating qualifying educational  
16 activities.

17 Regulation 2911(l) Significant or conscientious involvement in community,  
18 church or privately-sponsored programs designed to provide social benefits or to ameliorate  
19 social problems.

20 Respondent has not submitted evidence demonstrating qualifying community  
21 service activities.

22 Regulation 2911(n) Change in attitude from that which existed at the time of the  
23 conduct in question as evidenced by any or all of the following:

24 (1) Testimony of applicant.

25 The decision denying Respondent's license application specified that "Respondent  
26 shall submit with any application for license under an employing broker, or any application for  
27 transfer to a new employing broker, a statement signed by the prospective employing real estate

1 broker on a form approved by the Department of Real Estate which shall certify:

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

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

7 Respondent was employed as a licensed real estate salesperson by Mulhearn  
8 Realtors, Inc. dba Prudential California Realty and by More Lucky Cats, Inc. dba Keller Williams  
9 Realty Westside without complying with this requirement.

10 In view of Respondent's failure to demonstrate compliance with Regulations  
11 2911(i), 2911(l) and 2911(n)(1) of the Criteria of Rehabilitation, I am not satisfied that  
12 Respondent's rehabilitation adequately supports issuance of an unrestricted license to  
13 Respondent.

14 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
15 restrictions on Respondent's real estate salesperson license is denied.

16 This Order shall become effective at 12 o'clock noon on OCT 15 2009

17 DATED: 9-2-09

18 JEFF DAVI  
19 Real Estate Commissioner  
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Telephone: (213) 576-6982

FILED  
NOV 17 2005  
DEPARTMENT OF REAL ESTATE

By Laura B. Han

***In the Matter of the Application of***

ANITA ACKER,

No. H- 32265 LA

## STIPULATION AND WAIVER

Respondent

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

I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on October 25, 2005, in connection with my application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

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

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

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

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

- 15 1. The license shall not confer any property right in the privileges to be exercised including the  
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right  
17 to exercise any privileges granted under this restricted license in the event of:
  - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a  
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
  - 20 b. The receipt of evidence that respondent has violated provisions of the California Real  
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or  
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the  
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license  
25 until two years have elapsed from the date of issuance of the restricted license to respondent.  
26  
27

3. With the application for license, or with the application for transfer to a new employing broker, I shall submit a statement signed by the prospective employing broker on a form approved by the Department of Real Estate wherein the employing broker shall certify as follows:

- a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and
- b. That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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

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

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

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

3 10/29/05  
4 Dated

Anita ACKER  
ANITA ACKER, Respondent

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5 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by  
6 respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and  
7 truthfulness of respondent need not be called and that it will not be inimical to the public interest to issue a  
8 restricted real estate salesperson license to respondent.

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

13 This Order is effective immediately.

14 IT IS SO ORDERED 11-16-05.

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16 Jeff Davi  
17 Real Estate Commissioner  
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1 KELVIN K. LEE, Counsel (SBN 152867)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6905

FILED  
OCT 25 2005  
DEPARTMENT OF REAL ESTATE

By Jana B. Stone

7 BEFORE THE DEPARTMENT OF REAL ESTATE  
8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Application of ) No. H-32265 LA  
11 ANITA ACKER, )  
12 ) STATEMENT OF ISSUES  
13 Respondent. )

14 The Complainant, Maria Suarez, a Deputy Real Estate  
15 Commissioner of the State of California, for cause of Statement  
16 of Issues against ANITA ACKER, ("Respondent"), is informed and  
17 alleges as follows:  
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19 1.

20 The Complainant, Maria Suarez, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Statement of  
22 Issues against Respondent in her official capacity.

23 2.

24 Respondent made application to the Department of Real  
25 Estate of the State of California for a real estate salesperson  
26 license on or about October 28, 2004, with the knowledge and  
27 understanding that any license issued as a result of said



1 application would be subject to the conditions of Business and  
2 Professions Code ("Code") Section 10153.4.

3 CRIMINAL CONVICTIONS

4 3.

5 On or about February 6, 1998 in the United States  
6 District Court of Nevada, in Case No. CR-S-97-237-PMP (LRL),  
7 Respondent was convicted of one (1) count of violating 18 U.S.C.  
8 Section 1344, (Bank Fraud). This crime involves moral turpitude,  
9 and bears a substantial relationship under Section 2910, Title  
10 10, Chapter 6, California Code of Regulations to the  
11 qualifications, functions or duties of a real estate licensee.

12 4.

13 The crime for which Respondent was convicted, as  
14 described in Paragraph 3, constitutes cause for denial of  
15 Respondent's application for a real estate license under Code  
16 Sections 475(a)(2), 480(a)(1) and/or 10177(b).

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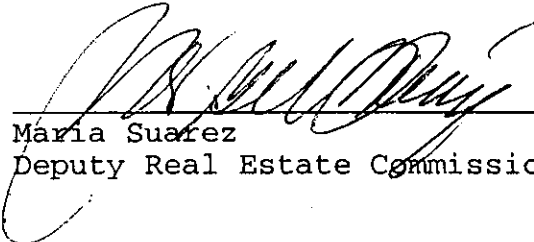
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1 WHEREFORE, Complainant prays that the above entitled  
2 matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent, ANITA ACKER, and for such other and  
6 further relief as may be proper under other provisions of law.

7 Dated at Los Angeles, California

8 this 24th day of October, 2005.

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10   
11 Maria Suarez  
12 Deputy Real Estate Commissioner

13 cc: Anita Acker  
14 United Pacific Mortgage and Real Estate  
15 Vernon Whiteside  
16 Maria Suarez  
17 Sacto.  
18 DG  
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