

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982

FILED  
JAN - 8 2007  
DEPARTMENT OF REAL ESTATE

By C

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) NO. H-32656 LA  
12 ) L-2006040537  
13 YESICA MONIC ALCALA, )  
14 Respondent. ) STIPULATION AND AGREEMENT  
15 ) AND  
16 ) DECISION AFTER REJECTION

17 The California Department of Real Estate  
18 ("Complainant") filed an Accusation against YESICA MONIC ALCALA  
19 ("Respondent") on April 6, 2006. On July 21, 2006, a hearing  
20 was held and evidence received, the record was closed, and the  
21 matter was submitted.

22 On August 18, 2006, the Proposed Decision of the  
23 Administrative Law Judge was issued, and determined, among other  
24 things, that Respondent's real estate salesperson license should  
25 be suspended for thirty (30) days, and that following said  
26 suspension, a restricted real estate salesperson license shall  
27 be issued to Respondent.

1           On October 16, 2006, the Commissioner notified  
2 Respondent that the Proposed Decision of the Administrative Law  
3 Judge was not adopted as the Decision of the Real Estate  
4 Commissioner.

5           The parties wish to settle this matter without further  
6 proceedings.

7           IT IS HEREBY STIPULATED by and between Respondent and  
8 the Complainant, acting by and through Jennifer A. Granat,  
9 Counsel for the Department of Real Estate, as follows for the  
10 purpose of settling and disposing of the Accusation filed by  
11 Complainant.

12           A. It is understood by the parties that the Real  
13 Estate Commissioner may adopt the Stipulation and Agreement and  
14 Decision After Rejection as his decision in this matter, thereby  
15 imposing the penalty and sanctions on Respondent's real estate  
16 license and license rights as set forth in the below "Decision  
17 and Order." In the event the Commissioner in his discretion  
18 does not adopt the Stipulation and Agreement and Decision After  
19 Rejection, the Stipulation shall be void and of no effect; the  
20 Commissioner will review the transcript and the evidence in the  
21 case, and will issue his Decision after Rejection as his  
22 Decision in this matter.

23           B. By reason of the foregoing and solely for the  
24 purpose of settlement of the Accusation without further  
25 administrative proceedings, it is stipulated and agreed that the  
26 Factual Findings, which are set out in the Proposed Decision,  
27

1 and which were rejected by the Commissioner on October 3, 2006,  
2 are hereby adopted and incorporated by reference herein.

3 C. By reason of the foregoing and solely for the  
4 purpose of settlement of the Accusation without further  
5 administrative proceedings, it is stipulated and agreed the  
6 Commissioner shall adopt the following Order:

7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 All licenses and licensing rights of Respondent  
10 YESICA MONIC ALCALA under the Real Estate Law are revoked;  
11 provided, however, a restricted real estate salesperson license  
12 shall be issued to Respondent pursuant to Section 10156.5 of  
13 the Business and Professions Code if Respondent makes  
14 application therefor and pays to the Department of Real Estate  
15 the appropriate fee for the restricted license within 90 days  
16 from the effective date of this Decision. The restricted  
17 license shall be subject to all of the provisions of Business  
18 and Professions Code Section 10156.7 and to the following  
19 limitations, conditions and restrictions imposed under  
20 authority of Section 10156.6 of that Code:

21 1. The restricted license issued to Respondent shall  
22 be suspended for a period of thirty (30) days from the date of  
23 issuance of the restricted license.

24 2. The restricted license issued to Respondent may  
25 be suspended prior to hearing by order of the Real Estate  
26 Commissioner in the event of Respondent's conviction or plea of  
27

1 nolo contendere to a crime which is substantially related to  
2 Respondent's fitness or capacity as a real estate licensee.

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

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

14 5. Respondent shall submit with any application for  
15 license under an employing broker, or any application for  
16 transfer to a new employing broker, a statement signed by the  
17 prospective employing broker on a form approved by the  
18 Department of Real Estate which shall certify:  
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20 (a) That the employing broker has read the  
21 Decision of the Commissioner which granted  
22 the right to a restricted license; and

23 (b) That the employing broker will exercise  
24 close supervision over the performance by  
25 the restricted licensee relating to  
26 activities for which a real estate license  
27 is required.

6. Respondent shall, within nine (9) 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 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

12-5-06

DATED

JENNIFER A. GRANAT, Counsel  
DEPARTMENT OF REAL ESTATE

\* \* \*

I have read the Stipulation and Agreement and Decision after Rejection and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

12-4-06

DATED

YESICA MONIC ALCALA, Respondent

6. Respondent shall, within nine (9) 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 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

12-5-06

DATED

JENNIFER A. GRANAT, Counsel  
DEPARTMENT OF REAL ESTATE

\* \* \*

I have read the Stipulation and Agreement and Decision after Rejection and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED

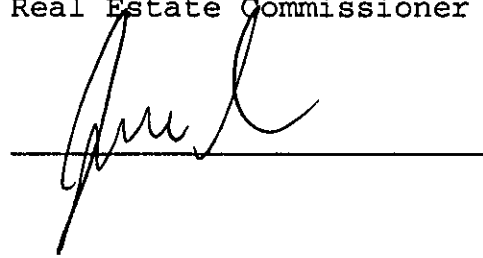
YESICA MONIC ALCALA, Respondent

\* \* \*

The foregoing Stipulation and Agreement and Decision  
after Rejection is hereby adopted as my Decision in this matter  
and shall become effective at 12 o'clock noon on January 29, 2007.

IT IS SO ORDERED on 12-19-06.

JEFF DAVI  
Real Estate Commissioner

A handwritten signature in dark ink, appearing to read 'Jeff Davi', is written over a horizontal line.

FILED  
OCT 16 2006  
DEPARTMENT OF REAL ESTATE

By                     

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

|                                    |   |                |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of | ) | No. H-32656 LA |
|                                    | ) |                |
| YESICA MONIC ALCALA,               | ) | L-2006040537   |
|                                    | ) |                |
| Respondent.                        | ) |                |

NOTICE

TO: YESICA MONIC ALCALA, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 18, 2006, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 18, 2006, 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 July 21, 2006, and any written argument hereafter submitted on behalf of Respondent and Complainant.

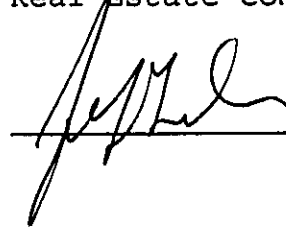


1           Written argument of Respondent to be considered by me  
2 must be submitted within 15 days after receipt of the transcript  
3 of the proceedings of July 21, 2006, at the Los Angeles office of  
4 the Department of Real Estate unless an extension of the time is  
5 granted for good cause 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: \_\_\_\_\_

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13                               JEFF DAVI  
14                               Real Estate Commissioner  
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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
SEP 20 2006  
DEPARTMENT OF REAL ESTATE

By C

In the Matter of the Accusation Against:

YESICA MONIC ALCALA

Respondent

Case No. H-32656 LA

OAH No.: L2006040537

**PROPOSED DECISION**

On July 21, 2006, in Los Angeles, California, Deborah Myers, Administrative Law Judge, Office of Administrative Hearings, heard this matter.

Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California (Complainant), was represented by Jennifer A. Granat, Staff Counsel.

Respondent, Yesica Monic Alcala (Respondent) was present and represented herself.

Oral and documentary evidence was received. The matter was submitted for decision and the record was closed.

**FACTUAL FINDINGS**

The Administrative Law Judge makes the following factual findings:

1. The Accusation was filed by Maria Suarez, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity.
2. Respondent was originally licensed as a real estate salesperson on October 28, 2000. Her salesperson's license will expire on October 27, 2008. Complainant seeks to revoke or suspend this license due to her recent criminal conviction.
3. On February 10, 2005, in the Superior Court of California, County of Los Angeles, in Case No. YA060589, Respondent was convicted, on her plea of no

contest, of violating Penal Code section 484, subdivision (a), (theft of property), a misdemeanor and crime of moral turpitude substantially related to the qualifications, functions and duties of a real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a) (1).

4. Respondent was given a suspended sentence and was placed on summary probation for three years. She was ordered to serve four days in county jail and to perform 20 days of CalTrans service. Respondent was further ordered to pay a restitution fine of \$120.00. Respondent has served her jail time, completed her CalTrans work, and paid her fine. She will remain on probation until February 10, 2008.

5. The facts and circumstances underlying the conviction are that on December 16, 2004, Respondent was a security guard at a Honeywell Industries plant in Torrance, California. Respondent and another guard took several unclaimed gift baskets containing fruit, chocolate and gift cards which had been delivered to tenants of the building for Christmas. The baskets, which came from several florist shops, had been purchased by an unknown person using a credit card without the account holder's consent. When later questioned by her supervisor, Respondent admitted to taking several baskets.

6. In mitigation of her crime, Respondent explained she took the gift baskets because she believed they were abandoned property. The plant was closing for the Christmas break, and she believed the fruit in the unclaimed baskets would spoil. There was no evidence that Respondent or the other guard had fraudulently used the credit card which purchased the baskets.

7. Respondent previously held a guard registration and had worked as a security guard for seven years without any other incidents. Respondent has no previous or subsequent criminal convictions. She is married and has no children.

8. Respondent's immediate supervisor at Banker's Realtors, CEO and real estate salesperson Herm Carrillo (Carrillo), testified in support of her continued licensure. Respondent has worked closely with him as his assistant since September 2005. Carrillo thinks very highly of Respondent, and believes she is an asset to their firm. He has received only compliments, not complaints about Respondent from their clients. She is quick and efficient when processing paperwork. He learned of her conviction four months ago and was initially concerned about her trustworthiness. However, she was very forthcoming and he allowed her to keep working with him. He believes she has a good attitude and she has adhered to company policies. Carrillo does not believe Respondent presents a risk to the clients; rather he believes she has a high level of integrity and trusts her with confidential client information. Carrillo appeared to clearly understand, by his credibility and demeanor, that continuing to employ Respondent could lead to adverse action against his license, should she act

inappropriately. In spite of this risk, he is willing to employ Respondent pending the outcome of this disciplinary action.

9. Respondent had previously worked with another realtor for three years, until her untimely death. Respondent was deeply affected and did not work in real estate sales for several years after that event.

10. Respondent appeared remorseful for her criminal conduct. She is now very careful about what she does and would no longer take anything that does not belong to her.

### LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to suspend or revoke Respondent's real estate salesperson's license pursuant to Business and Professions Code section 490, and 10177, subdivision (b) for conviction of a crime, as set forth in Findings 3, 4, and 5.

2. Respondent's criminal conviction is very recent and involved moral turpitude. In *Golde v. Fox* (1979) 98 Cal. App. 3d 167 at 176, the court stated: "Honesty and integrity are deeply and daily involved in various aspects of the practice." The integrity of documents and the truthfulness of the licensees involved in real estate transactions are of paramount importance in the industry.

3. Respondent breached the public confidence when she took several gift baskets which did not belong to her. She acted in the capacity of a trusted security guard and took several items intended for other tenants. However, from all appearances, this was an aberrant act in Respondent's career. There were somewhat mitigating circumstances in that she believed the gift baskets were abandoned property and she thought the unclaimed fruit in the baskets would spoil over the Christmas break while the Honeywell plant was closed.

4. Respondent has met some of the Department's criteria of rehabilitation set forth in California Code of Regulations, title 10, section 2912. She has paid restitution and fines. (Subds. (b) and (g).) She is remorseful for her conduct, and has exhibited a change of attitude which existed at the time of the crime. Respondent's supervisor trusts her with his clients, and stands behind her. He is aware of her criminal conviction and is willing to continue working with Respondent. He is willing to supervise her work and place his license on the line. She has a good attitude and has adhered to her broker's policies. (Subd. (m).)

5. However, only 18 months, not two years have passed since her conviction (Subd. (a).) Therefore, the public interest will be protected with the following order.

### ORDER

#### WHEREBY THE FOLLOWING ORDER is hereby made:

1. All licenses and licensing rights of Respondent Yesica Monic Alcala under the Real Estate Law are suspended for a period of thirty days from the effective date of this Decision.

2. After said suspension, 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:

(A) 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.

(B) 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.

(C) 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.

(D) 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:

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

(2) 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.

(E) 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 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: August 18, 2006

A handwritten signature in cursive script, appearing to read "Deborah Myers", written over a horizontal line.

DEBORAH MYERS

Administrative Law Judge

Office of Administrative Hearings

5/12  
1 JENNIFER A. GRANAT, Counsel (SBN 199868)  
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) 576-6907

FILED  
APR - 6 2008  
DEPARTMENT OF REAL ESTATE

By 

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) NO. H-32656 LA  
12 )  
13 YESICA MONIC ALCALA, ) A C C U S A T I O N  
14 ) Respondent. )

15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against YESICA MONIC ALCALA ("Respondent"), alleges in her  
18 official capacity as follows:

19 I

20 At all times herein mentioned, Respondent YESICA MONIC  
21 ALCALA was and is presently licensed by the Department of Real  
22 Estate of the State of California as a real estate salesperson  
23 under the Real Estate Law, Part 1 of Division 4 of the  
24 California Business and Professions Code.  
25  
26  
27

II

CONVICTION

On or about February 10, 2005, in the Superior Court of California, County of Los Angeles, Case No. YA060589, Respondent was convicted of one (1) count of violating California Penal Code Section 484(A) (theft of property), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

III

The crime of which Respondent was convicted, as set forth above, constitutes cause under Business and Professions Code Sections 490 and/or 10177(b) for the suspension or revocation of Respondent's license and license rights under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent, YESICA MONIC ALCALA, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such

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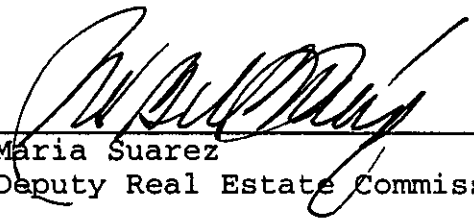
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1 other and further relief as may be proper under other applicable  
2 provisions of law.

3 Dated at Los Angeles, California

4 this 5th day of April, 2006.

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8 Maria Suarez  
9 Deputy Real Estate Commissioner  
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25 cc: Yesica Monic Alcala  
26 Bankers Realty Inc./Peter Joseph Mota  
27 Maria Suarez  
Sacto.