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OCT 22 2009

DEPARTMENT OF REAL ESTATE  
BY: *Laura B. Olson*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) NO. H-34916 LA  
)  
)  
PEDRO NOE JIMENEZ, )  
)  
Respondent )

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Pedro Noe Jimenez  
14322 Ibex Avenue  
Norwalk, CA 90650

On January 23, 2009, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Decision of December 31, 2008, in Case No. H-34916 LA. The Decision, which was effective January 22, 2009, granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional

1 terms, conditions and restrictions imposed under authority of  
2 Section 10156.6 of said Code. Among those terms, conditions  
3 and restrictions, was the requirement that:

4 "Respondent shall, within six months from the  
5 effective date of this decision, take and pass the  
6 Professional Responsibility Examination  
7 administered by the Department including the  
8 payment of the appropriate examination fee. If  
9 Respondent fails to satisfy this condition, the  
10 Commissioner may order suspension of Respondent's  
11 license until Respondent passes the examination."

12 The Commissioner has determined that as of  
13 July 22, 2009, Respondent has failed to satisfy this  
14 condition, and as such, is in violation of Section 10177(k) of  
15 the Business and Professions Code. (Respondent has no right  
16 to renew the restricted license if this condition isn't  
17 satisfied by the date of its expiration. (Section 10156.7 of  
18 the Business and Professions Code.)

19 NOW, THEREFORE, IT IS ORDERED under authority of  
20 Section 10156.7 of the Business and Professions Code of the  
21 State of California that the restricted real estate  
22 salesperson license heretofore issued to respondent and the  
23 exercise of any privileges thereunder is hereby suspended  
24 until such time as Respondent provides proof satisfactory to  
25 the Department of compliance with the condition(s) referred to  
26 above, or pending final determination made after hearing (see  
27 "Hearing Rights" set forth below).

IT IS FURTHER ORDERED that all license certificates  
and identification cards issued by Department which are in the

1 possession of respondent be immediately surrendered by  
2 personal delivery or by mailing in the enclosed,  
3 self-addressed envelope to:

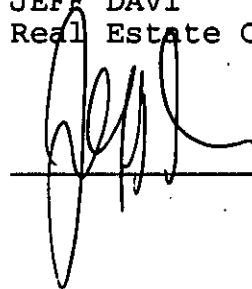
4 Department of Real Estate  
5 Attn: Flag Section  
6 P. O. Box 187000  
7 Sacramento, CA 95818-7000

8 HEARING RIGHTS: Pursuant to the provisions of  
9 Section 10156.7 of the Business and Professions Code, you have  
10 the right to a hearing to contest the Commissioner's  
11 determination that you are in violation of Section 10177(k).  
12 If you desire a hearing, you must submit a written request.  
13 The request may be in any form, as long as it is in writing  
14 and indicates that you want a hearing. Unless a written  
15 request for a hearing, signed by or on behalf of you, is  
16 delivered or mailed to the Department at 320 West 4<sup>th</sup> Street,  
17 Room 350, Los Angeles, California, 90013, within 20 days after  
18 the date that this Order was mailed to or served on you, the  
19 Department will not be obligated or required to provide you  
20 with a hearing.

21 This Order shall be effective immediately.

22 DATED: \_\_\_\_\_ 9-30-09

23 JEFF DAVI  
24 Real Estate Commissioner

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26 \_\_\_\_\_  
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**FILED**

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DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

\* \* \* \* \*

In the Matter of the Application of)

No. H-34916 LA

PEDRO NOE JIMENEZ,

L-2008090357

Respondent.

DECISION

The Proposed Decision dated December 3, 2008, 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.

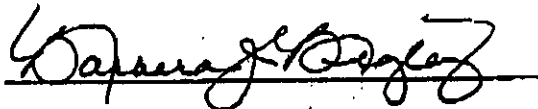
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on January 22, 2009.

IT IS SO ORDERED 12-31-08

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

PEDRO NOE JIMENEZ,

Respondent.

Case No. H-34916 LA

OAH No. L-2008090357

**PROPOSED DECISION**

This matter was heard by Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, on November 3, 2008, in Los Angeles. Complainant was represented by Julie L. To, Counsel. Respondent Pedro Noe Jimenez was present and represented himself.

Oral and documentary evidence having been received and the matter submitted for decision, the Administrative Law Judge finds as follows:

**FACTUAL FINDINGS**

1. The Administrative Law Judge takes official notice that, on April 28, 2008, the Statement of Issues, Case No. H-34916 LA, was made and filed by complainant Maria Suarez in her official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California (hereinafter Department).

2. On or about August 31, 2006, the Department received a Salesperson License Application filed by Pedro Noe Jimenez (hereinafter respondent) for issuance of a real estate salesperson's license. Respondent filed said application with the understanding that any license issued would be subject to the conditions of Business and Professions Code section 10153.4. The records of the Department do not show that respondent has successfully completed all of the courses required under Business and Professions Code section 10153.4.

3. On the Salesperson License Application, Question No. 25 asks, "Have you ever been convicted of any violation of law? Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense." In response to

this question, respondent marked and answered, "Yes" and, in the Detailed Explanation section, he disclosed the two convictions described hereinbelow.

4. (A) On or about July 21, 2004, before the Superior Court of California, County of Orange, in *People v. Pedro Noe Jimenez*, Case No. 04CM02378MA, respondent was convicted following a jury trial and verdict of petty theft in violation of Penal Code section 484, subdivision (a), a misdemeanor and crime involving moral turpitude.

(B) As result of the verdict, the court suspended imposition of sentence and placed respondent on informal probation for three years on condition, in part, that he violate no law, obey all orders and rules of the court and probation department, submit his person and property to search and seizure by a law enforcement or probation officer at any time with or without a warrant and with or without probable cause, not own or use any dangerous weapon, stay away from the Ron Jon Surf Shop, pay fines and fees totaling \$272.50, complete 20 hours of community service as directed by Volunteer Action Center, and report to the Orange County Sheriff's Department for booking and release.

(C) The facts and circumstances of respondent's conviction were that, on or about February 15, 2004, respondent went shopping with friends at The Block in Orange. He went into the Ron Jon Surf Shop and found a jacket to his liking. He took off the price tag, placed it in his pants pocket, and put on the jacket. Respondent went to the cashier but then walked to the exit door where his friend's sister was standing. She was holding his wallet. When he approached the exit door, the store's alarm system was activated by the price tag in his pocket. Respondent was arrested and charged with petty theft. He contested the charge by requesting a jury trial and he was convicted.

(D) Respondent's conviction for petty theft was for a crime substantially related to the qualifications, functions, or duties of a licensed real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a)(8). Respondent committed the unlawful act of theft with the intent of conferring financial benefit upon himself. Honesty and integrity are qualities expected of a real estate licensee.

5. (A) On July 23, 2004, respondent reported to the Orange County Sheriff's Department for booking and release. On September 30, 2004, respondent completed the 20 hours of community service and paid the fines and fees totaling \$272.50. On or about July 21, 2007, he completed the three years of informal probation for his petty theft conviction.

(B) On October 7, 2008, the Orange County Superior Court granted respondent's Petition under Penal Code section 1203.4 after finding that he had complied with the terms of his probation and ordering the termination of his

probation. The court set aside the jury verdict, entered a plea of not guilty, and dismissed the criminal complaint for petty theft.

6. (A) On or about April 16, 2004, before the Superior Court of California, County of Los Angeles, in *People v. Pedro Jimenez*, Case No. 4LC00880, respondent was convicted on his plea of nolo contendere of grand theft in violation of Penal Code section 487, subdivision (a), a misdemeanor and crime involving moral turpitude.

(B) As result of his plea, the court suspended imposition of sentence and placed respondent on summary probation for three years on condition, in part, that he obey all laws and orders of the court, perform 15 days of work with Cal Trans, stay away from all Macy's department stores, and pay a restitution fine of \$100. In addition, the court sentenced respondent to serve two days in jail and pay approximately \$1,000 in fines and fees or serve 10 additional days in jail. In lieu of the jail sentence and fines, the court ordered that respondent could perform 10 days of work with Cal Trans.

(C) The facts and circumstances of respondent's conviction were that, beginning on or about January 4, 2004, and continuing until February 16, 2004, respondent took or embezzled approximately \$1,150 in cash receipts from the Macy's in Cerritos while he was working for the department store as a cashier or sales associate. Respondent was detained by store security after he was seen taking a \$50 bill from a sales transaction. Upon questioning by store security and sheriff's deputies, respondent admitted that he had been taking cash from sales transactions since early January 2004. He admitted that he took a total of approximately \$1,150 from Macy's on 14 different occasions and agreed to pay the money back to the department store.

(D) Respondent's conviction for grand theft was for a crime substantially related to the qualifications, functions, or duties of a licensed real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a)(8). Respondent committed the unlawful act of theft with the intent of conferring financial benefit upon himself. Honesty and integrity are qualities expected of a real estate licensee.

7. (A) On May 12, 2004, the Superior Court held a restitution hearing, but no one appeared on behalf of Macy's. The court then took the restitution hearing off calendar and did not order respondent to make any restitution to Macy's.

(B) On September 20, 2004, respondent was remanded into custody and served the court-ordered two-day jail sentence for his conviction. He was granted an extension to complete the 15 days of work with Cal Trans and the 10 additional work days in lieu of the fines.

(C) On May 4, 2005, the court extended respondent's probation to December 2007 and granted his request for an extension to complete ten of the 25 days of work with Cal Trans and to pay the \$100 restitution fine.

(D) On July 6, 2005, respondent submitted proof to the court that he completed 200 hours of community service. He also paid the \$100 restitution fine. His probation was extended to September 2008.

8. On August 7, 2008, the Los Angeles County Superior Court granted respondent's Petition under Penal Code section 1203.4. The court determined that respondent had been convicted of a misdemeanor, was granted probation, and fulfilled the conditions of his probation for the entire period. The court set aside respondent's plea, entered a plea of not guilty, and dismissed the criminal complaint for grand theft.

9. Respondent admits his two convictions and explains that his offenses occurred during a three-month period in 2004 when he was 18 years old, had left his mother's home, and began living with a friend's family. He was rebelling against his mother but then underwent an emergency appendectomy and incurred medical and/or hospital bills of approximately \$25,000. Having no money or insurance, he began stealing cash at his Macy's job and continued doing so to obtain money to pay off his debt. One day after being given a notice to appear for his petty theft charge, he was arrested and jailed for committing grand theft from Macy's.

10. Respondent accepts responsibility for his offenses. He demonstrates remorse and regret for his conduct. He believes that he learned from the convictions. He returned to living with his mother after she paid his bail to have him released from jail.

11. Presently, respondent is 23 years old and single. He lives with his mother in Norwalk. He graduated from John Glenn High School and has earned credits from Cypress College toward an associate of arts degree. He hopes to have a career in real estate and to work with his mother who is a licensed real estate salesperson. From April 25, 2005, through June 9, 2005, respondent completed a real estate principles course with Century 21 Real Estate Schools in Santa Ana.

12. For the past year or so, respondent has worked as the weekend receptionist at the real estate office of REMAX Select in Cerritos. He has been attending training classes and participating in activities of the office. Richard Lopez, the manager and a broker for the REMAX office, states that respondent has excellent rapport with the licensed salespersons and staff of the office, attends real estate training classes, and is an exceptional student and an ambitious and energetic employee. The manager-broker indicates that respondent has a strong desire to have a career in real estate and that he would be willing to supervise respondent if he is granted a real estate license. Respondent told the brokers at the real estate office of



his two convictions. W. Gary Howard, the broker for the office, signed respondent's Salesperson License Application as the licensed officer of the sponsoring corporation. Respondent disclosed his convictions in his license application and told the brokers at the real estate office of his convictions.

13. Respondent's mother, Guillermina Jimenez, is a licensed real estate salesperson in the REMAX Select office in Cerritos. For the past three years or so, respondent has worked for his mother as her assistant, making appointments, putting up signs, and gathering papers for her. Prior to working for his mother at her real estate office, respondent worked as a restaurant server for nine months.

14. Respondent is active with his church in Norwalk. For the past four years, he has attended weekly services on Sundays and Bible study classes on Wednesdays. Moreover, he has volunteered approximately 10 days in the past year to help organize and set-up church carnivals and events. Respondent testified in a credible manner.

\* \* \* \* \*

Based on the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

LEGAL CONCLUSIONS

1. Grounds exist to deny respondent's application for a real estate salesperson's license under Business and Professions Code section 10177, subdivision (b), section 480, subdivision (a), and section 475, subdivision (a)(2), for convictions of crimes of moral turpitude which are substantially related to the qualifications, functions, or duties of a real estate licensee, based on Factual Findings 4 and 6 above.

2. Discussion—Based on Factual Findings 3, 5, and 7 – 14 above, respondent presented significant evidence of his rehabilitation from his two theft convictions under the criteria set forth in California Code of Regulations, title 10, section 2911. Four years have passed since respondent suffered his two convictions and he has not had another conviction in the interim. Respondent fulfilled the terms and conditions of his probations and successfully completed the probations for both convictions. In the past few months, he has had both misdemeanor convictions expunged by the Superior Court.

Respondent committed his theft offenses in early 2004 when he was living apart from his mother. Since then, he has returned to living at his mother's

home and been steadily employed. He was a restaurant server for nine months and has now worked in the real estate office where his mother is employed for the past three years. The broker-manager of the real estate office has found respondent to be an excellent and ambitious employee. As such, respondent now has a stable family life, developed work relationships, and found a career that he hopes to pursue. He is also active in his church and taken classes at a local community college. The evidence thus suggests that he has changed his outlook and attitude on life and is now positive and socially responsible.

However, because he completed probation for his two convictions only last year, respondent has not had a significant period of time during which he was not subject to probation. Moreover, he obtained expungements of his convictions very recently in August and October 2007. Under these circumstances, protection of the public interest and welfare require that respondent be issued a restricted real estate license with certain terms that would promote his continued adherence to a law-abiding and productive lifestyle and make him a better real estate licensee.

\* \* \* \* \*

Wherefore, the following Order is hereby made:

#### ORDER

The application of respondent Pedro Noe Jimenez for issuance of a real estate salesperson's license will be denied, based on Conclusion of Law 1 above; provided, however, a restricted real estate salesperson's license will be issued to respondent pursuant to Business and Professions Code Section 10156.5 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 and Order, based on Conclusion of Law 2 above. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code Section 10156.7 and to the following limitations, conditions, and restrictions imposed under the authority of Business and Professions Code Section 10156.6:

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

a. 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; or

b. The receipt of 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 this restricted license.

2. 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 three (3) years have elapsed from the effective date of this Decision.

3. 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.


4. Respondent's restricted real estate salesperson's license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two 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 respondent fails 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, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting of the suspension.

5. Pursuant to Business and Professions Code section 10154, if respondent has 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.

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6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

Dated: Dec. 3, 2008

  
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Vincent Nafarrete  
Administrative Law Judge  
Office of Administrative Hearings



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II

On or about July 21, 2004 in the Superior Court of California, County of Orange, Case No. 04CM02378, Respondent was convicted of violating California Penal Code Section 484(a)-488 (petty theft), a misdemeanor. Respondent was sentenced to 36 months probation, ordered to pay restitution fines, and ordered to perform 20 hours of community service.

III

On or about April 16, 2004 in the Superior Court of California, County of Los Angeles, Case No. 4LC00880, Respondent was convicted of violating California Penal Code Section 487(A) (grand theft), a misdemeanor. Respondent was sentenced to two days in jail, 36 months probation, ordered to pay restitution and fines, and ordered to perform 200 hours of community service.

IV

Said crimes involve moral turpitude and bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

The crimes of which Respondent was convicted, as alleged in Paragraphs II and III, constitute cause for denial of Respondent's application for a real estate license under Business and Professions Code Sections 475(a)(2), 480(a), and 10177(b).

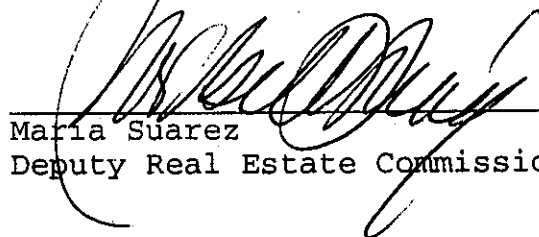
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These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the California Government Code.

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, PEDRO NOE JIMENEZ, and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California  
this 28<sup>th</sup> day of April, 2008.

  
\_\_\_\_\_  
Maria Suarez  
Deputy Real Estate Commissioner

cc: PEDRO NOE JIMENEZ  
Sandbank, Inc.  
Maria Suarez  
Sacto