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FILED
MAY 21, 2009
DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

SHANNON MARTINEZ,

Respondent..

DRE No. H-35170 LA
OAH No. L2008090363

DECISION AFTER REJECTION

This matter came on for hearing before Deborah Myers-Cregar, Administrative Law Judge, Office of Administrative Hearings, State of California, in Los Angeles, California, on December 2, 2008.

Lisette Garcia, Counsel, represented the Complainant. The Respondent, Shannon Martinez, appeared in person and was represented by Lisa Shinar, Attorney at Law.

Evidence was received, the record was closed, and the matter was submitted.

On December 19, 2008, the Administrative Law Judge rendered a Proposed Decision (hereinafter "the Proposed Decision") which the Real Estate Commissioner declined to adopt as his Decision herein. Pursuant to Section 11517 of the Government Code of the State of California, Respondent was served with notice of the Real Estate Commissioner's determination not to adopt the Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that the case would be decided by the Real Estate Commissioner upon

1 the record, the transcript of proceedings held on December 2, 2008, and upon written argument
2 offered by Respondent and Complainant.

3 Written argument was timely submitted by Respondent on February 25, 2009.
4 Written argument has been submitted on behalf of Complainant.

5 I have given careful consideration to the record in this case, including the
6 transcript of proceedings of December 2, 2008, and written argument offered by Respondent
7 and Complainant.

8 The following shall constitute the Decision of the Real Estate Commissioner in
9 these proceedings.

10 FINDINGS OF FACT

11 1. Maria Suarez (Complainant) brought this action in her official capacity
12 as a Deputy Real Estate Commissioner, State of California.

13 2. Respondent has held a real estate salesperson license, issued by the
14 Department of Real Estate (Department), since April 13, 1989. She has held a real estate
15 broker license since April 19, 2001. That license will expire on April 18, 2009, unless it is
16 renewed.

17 3. On November 27, 2006, in the United States District Court, Central
18 District of California, case number SACR 03-311-(A)-AHS, Respondent was convicted, on
19 her plea of guilty, of violating 18 U.S.C. section 1012, (receiving compensation with intent
20 to defraud HUD), a misdemeanor and a crime involving moral turpitude.

21 4. The court suspended imposition of sentence and placed Respondent on
22 formal probation for two years under certain terms and conditions, including performing 100
23 hours of community service, paying assessments in the sum of \$25 and paying fines in the
24 sum of \$5,000 within 90 days of the conviction. Respondent was further ordered to notify
25 her employer of the nature of her conviction within 30 days of the sentence.

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1 5. The facts and circumstances surrounding the conviction are that, in
2 March 1999, Respondent knowingly made a false statement to HUD in order to obtain
3 mortgage loan approval and insurance from HUD for her real estate client.

4 6. Respondent was very candid about her participation in submitting a
5 fraudulent paycheck stub. She expressed remorse for that crime. Specifically, Respondent
6 had worked at American Capital and had a paycheck stub "doctored up." She referred a
7 home buyer to an individual who prepared false paycheck stubs. Respondent then submitted
8 the false check stub to HUD so that her client would be approved for mortgage insurance.
9 The mortgage loan was approved and Respondent received a sales commission. The fraud
10 was discovered in 2003 when the home buyer did not make his monthly payments. HUD
11 performed an audit and discovered the home buyer's pay stub did not support the W-2
12 income reported. The property went into foreclosure, but the buyer refinanced before the
13 foreclosure was finalized.

14 7. Respondent appeared credible, by her attitude and demeanor, when she
15 testified that this crime was a one-time occurrence, which she attributed to feeling financial
16 pressures during the throes of her emotionally difficult three-year-long divorce and
17 subsequent buyout of her husband's equity in marital assets. She now conducts herself "by
18 the book" because she does not wish to jeopardize her livelihood. Respondent believes that,
19 since her conviction, her life has changed and stabilized for the better. She described her
20 current relationships as being very supportive. Respondent lives with her fiancée, her son
21 and two of her three grandchildren. Her son is attending a four-year university and
22 Respondent financially supports him and pays for his college tuition.

23 8. Respondent credibly testified that she changed her business practices
24 since the criminal act she committed in March 1999. Respondent left the business of being a
25 mortgage broker and began working for a direct lender. She described this as a positive
26 change. Respondent has worked for Countrywide as a home loan consultant and manager
27 since March 2002. That position does not require her to maintain her real estate license

1 because she qualifies buyers and gathers loan documentation only. She is currently
 2 supervised by Marlene Ville. Respondent received a certificate of award from Countrywide
 3 acknowledging her efforts for having the highest loan sales as a home loan consultant in the
 4 first quarter of 2006. She told her manager about her conviction because she was under a
 5 court order to do so. Her manager has been supportive and believes Respondent to have
 6 integrity.

7 9. Respondent has received several awards from the "Builder's Industry"
 8 in Rancho Cucamonga for her role on their membership committee in 2007. She helps the
 9 building industry raise money to advertise a home showcase, which helps them move their
 10 inventory.

11 10. Respondent completed her community service by volunteering for the
 12 National Foundation for Services to Children. In 2005 and 2006, Respondent previously
 13 volunteered at Worldworks, a leadership program which raises money for "Beyond Shelter"
 14 in Los Angeles. Respondent paid her \$5,000 fine in a timely manner.

15 11. There was no evidence Respondent suffered any other convictions or
 16 committed any other unlawful acts. There was no evidence of any previous or subsequent
 17 Departmental license discipline against her.

18 CONCLUSIONS OF LAW

19 1. Cause exists to revoke or suspend Respondent's real estate broker
 20 license, pursuant to Business and Professions Code sections 490 and 10177, subdivision
 21 (b), for having a criminal conviction which is substantially related to the qualifications,
 22 functions or duties of a licensee under California Code of Regulations, title 10, section
 23 2910, subdivisions (a)(1), (a)(2), (a)(4), and (a)(8), as set forth in Findings 3, 4 and 5.

24 2. Business and Professions Code section 490 authorizes the suspension
 25 or revocation of a license if the licensee is convicted of a crime which is substantially related
 26 to the qualifications, functions or duties of the licensed profession. Business and Professions
 27 Code section 10177, subdivision (b), authorizes the Commissioner to suspend or revoke a

1 license when the licensee has been convicted of a crime substantially related to the
2 qualifications, functions or duties of a real estate licensee.

3 3. California Code of Regulations, title 10, section 2910, subdivision
4 (a)(1), specifies that a conviction is substantially related to the qualifications, functions or
5 duties of a licensee when a licensee fraudulently takes the property of another. Section 2910,
6 subdivision (a)(2), deems such a nexus exists when a licensee utters a false statement.
7 Section 2910, subdivision (a)(4), deems a substantial relationship exists when the licensee
8 employs fraud, deceit, falsehood or misrepresentation to achieve an end. Section 2910,
9 subdivision (a)(8), specifies a nexus exists when a licensee commits an unlawful act
10 intending to receive a financial benefit. Because Respondent presented a false check stub to
11 HUD in order to receive financial compensation, her criminal conviction is substantially
12 related to a real estate licensee under section 2910, subdivisions (a)(1), (a)(2), (a)(4) and
13 (a)(8), as set forth in Findings 3, 4 and 5.

14 4. Respondent's conviction involves moral turpitude because she
15 knowingly made a false statement to HUD for the purpose of receiving a financial benefit,
16 which is an act of dishonesty.

17 5. As an extenuating factor, Respondent's divorce forced her into
18 financial problems and pressures which led to her decision to commit fraud. However, this
19 does not absolve her of responsibility for her misdeeds.

20 6. In evaluating Respondent's rehabilitation, there are several factors
21 which are to be considered in determining the current level of risk she presents to the public
22 as a real estate licensee.

23 7. Respondent has satisfied some of the Department's criteria for
24 rehabilitation found at California Code of Regulations, title 10, section 2912, subdivisions
25 (a) through (m). Two years have passed since Respondent's conviction, and almost ten years
26 have passed since the criminal act occurred. (Subd. (a).) She completed her probation, paid
27 her fines and performed her community service. (Subds. (e) and (g).) Respondent corrected

1 her business practices. (Subd. (h).) She has developed a stable family life and she is
2 supporting her adult son and two grandchildren. (Subd. (j).) Respondent established that she
3 had a change in attitude from that which existed at the time of the commission of her crime.
4 (Subd. (m).) However, Respondent's conviction has not been expunged because the federal
5 system does not provide for expunging convictions. (Subd. (c).)

6 8. Respondent evinced a lack of trustworthiness when she presented the
7 false pay stub to HUD to induce them to approve the mortgage insurance for her client.
8 Honesty and integrity are essential characteristics of a real estate licensee, as set forth in
9 *Golde v. Fox* (1979) 98 Cal App 3d 167. A real estate licensee must possess the requisite
10 honesty and integrity which is so critical to the profession. Real estate licensees working in
11 the mortgage business obtain confidential financial information of their clients. Those
12 licensees have great incentive to successfully process and close mortgage loans in order to
13 receive their compensation. Here, Respondent's temptation to falsify a paycheck stub
14 prevailed over her obligation to comply with the law. That criminal act occurred nearly 10
15 years ago, and there was no evidence of any previous or subsequent criminal wrongdoing.
16 Respondent's fraudulent act was only discovered because the home buyer defaulted on the
17 loan, and would have been otherwise undiscovered. While the federal court took
18 Respondent's conduct seriously when it ordered Respondent to complete 100 hours of
19 community service and to pay a \$5,000 fine, it was rather lenient when it imposed only a
20 two-year criminal probation.

21 9. At the time she committed fraud, Respondent was a salesperson.
22 Although she was supervised, this fraud went undetected. Respondent has acted as a broker
23 since 2001, and brokers are typically unsupervised. Currently, Respondent is supervised at
24 Countrywide, which is a direct lender and potentially provides an environment which is less
25 susceptible to the temptations to falsify loan documents in order to receive a commission.
26 Since Respondent has worked as a broker, there is no evidence of any wrongdoing in that
27 capacity.

1 10. Another factor to consider is the likelihood that Respondent will
2 commit another such criminal act. This requires an evaluation of Respondent's good conduct
3 over a lengthy period of time to determine whether she is able to conform her behavior in
4 compliance with societal laws. Remorse for one's conduct and the acceptance of
5 responsibility are the cornerstones of rehabilitation. Rehabilitation is a "state of mind" and
6 the law looks with favor upon rewarding with the opportunity to serve one who has achieved
7 "reformation and regeneration." (See *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)
8 Fully acknowledging the wrongfulness of past actions is an essential step towards
9 rehabilitation. (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) A
10 truer indication of rehabilitation is sustained good conduct over an extended period of time.
11 (See *In re Menna* (1995) 11 Cal.4th 975, 991.) The evidentiary significance of misconduct
12 is greatly diminished by the passage of time and by the absence of similar, more recent
13 misconduct. (See *Kwasnik v. State Bar* (1990) Cal.3d 1064, 1070.)

14 11. Respondent has expressed remorse for her conduct, and has otherwise
15 been forthright when she testified about her act of mortgage loan fraud. It was a single
16 incident during her twenty years of licensure. Respondent has otherwise demonstrated an
17 ability to comply with the law since that time. She has satisfied the majority of the
18 Department's criteria for rehabilitation. In considering all of the factors discussed above, and
19 in assessing Respondent's conduct, testimony and demeanor, it appears unlikely that
20 Respondent will transgress the law again. Nonetheless, her conduct justifies discipline
21 against her license in order to protect the public interest, to ensure Respondent appreciates
22 the implication of her criminal act, and to provide a deterrent to other licensees.

23 ORDER

24 All licenses and licensing rights of Respondent Shannon Martinez under the
25 Real Estate Law are revoked; provided, however, a restricted real estate broker license shall
26 be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code
27 if Respondent makes application therefor and pays to the Department of Real Estate the

1 appropriate fee for the restricted license within 90 days from the effective date of this

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

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

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

14 3. Respondent shall not be eligible to apply for the issuance of an
15 unrestricted real estate license nor for the removal of any of the conditions, limitations or
16 restrictions of a restricted license until two years have elapsed from the effective date of this
17 Decision.

18 4. Respondent shall, within nine months from the effective date of this
19 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,
20 since the most recent issuance of an original or renewal real estate license, taken and
21 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of
22 the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
23 condition, the Commissioner may order the suspension of the restricted license until the

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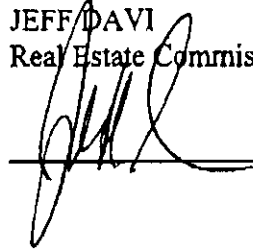
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1 Respondent presents such evidence. The Commissioner shall afford Respondent the
 2 opportunity for a hearing pursuant to the Administrative Procedure Act to present such
 3 evidence.

4 This Decision shall become effective at 12 o'clock noon on JUNE 10, 2009.

5 IT IS SO ORDERED 5/19/09

7 JEFF DAVI
 8 Real Estate Commissioner

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FILED
JAN. 21, 2009
DEPARTMENT OF REAL ESTATE

By C-8

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35170 LA
)	
SHANNON MARTINEZ,)	L-2008090363
)	
Respondent.)	
)	

NOTICE

TO: SHANNON MARTINEZ, Respondent, and LISA SHINAR, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated December 19, 2008, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated December 19, 2008, 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 December 2, 2008, any written argument hereafter submitted on behalf of Respondent and Complainant.

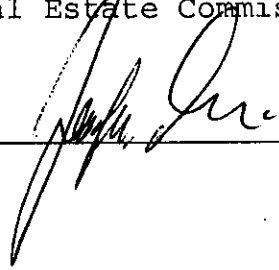
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Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of December 2, 2008, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

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

DATED: 1-15-09

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SHANNON MARTINEZ,

Respondent.

Case No. H 35170 LA

OAH No. L2008090363

PROPOSED DECISION

Administrative Law Judge Deborah Myers-Cregar of the Office of Administrative Hearings heard this matter on December 2, 2008, in Los Angeles, California.

Lisette Garcia, Staff Counsel, represented Maria Suarez (Complainant). Lisa Shinar, Attorney at Law, represented Respondent Shannon Martinez (Respondent).

Oral and documentary evidence was received. The matter was submitted, and the record was closed on the hearing date.

The Administrative Law Judge makes the following factual findings and legal conclusions:

FACTUAL FINDINGS

1. Maria Suarez (Complainant) brought this action in her official capacity as a Deputy Real Estate Commissioner, State of California.
2. Respondent has held a real estate salesperson license, issued by the Department of Real Estate (Department), since April 13, 1989. She has held a real estate broker license since April 19, 2001. That license will expire on April 18, 2009, unless it is renewed.
3. On November 27, 2006, in the United States District Court, Central District of California, case number SACR 03-311-(A)-AHS, Respondent was convicted, on her plea of guilty, of violating 18 U.S.C. section 1012, (receiving compensation with intent to defraud HUD), a misdemeanor and a crime involving moral turpitude.
4. The court suspended imposition of sentence and placed Respondent on formal probation for two years under certain terms and conditions, including

performing 100 hours of community service, paying assessments in the sum of \$25 and paying fines in the sum of \$5,000 within 90 days of the conviction. Respondent was further ordered to notify her employer of the nature of her conviction within 30 days of the sentence.

5. The facts and circumstances surrounding the conviction are that, in March 1999, Respondent knowingly made a false statement to HUD in order to obtain mortgage loan approval and insurance from HUD for her real estate client.

6. Respondent was very candid about her participation in submitting a fraudulent paycheck stub. She expressed remorse for that crime. Specifically, Respondent had worked at American Capital and had a paycheck stub "doctored up." She referred a home buyer to an individual who prepared false paycheck stubs. Respondent then submitted the false check stub to HUD so that her client would be approved for mortgage insurance. The mortgage loan was approved and Respondent received a sales commission. The fraud was discovered in 2003 when the home buyer did not make his monthly payments. HUD performed an audit and discovered the home buyer's pay stub did not support the W-2 income reported. The property went into foreclosure, but the buyer refinanced before the foreclosure was finalized.

7. Respondent appeared credible, by her attitude and demeanor, when she testified that this crime was a one time occurrence, which she attributed to feeling financial pressures during the throes of her emotionally difficult three year-long divorce and subsequent buyout of her husband's equity in marital assets. She now conducts herself "by the book" because she does not wish to jeopardize her livelihood. Respondent believes that, since her conviction, her life has changed and stabilized for the better. She described her current relationships as being very supportive. Respondent lives with her fiancée, her son and two of her three grandchildren. Her son is attending a four-year university and Respondent financially supports him and pays for his college tuition.

8. Respondent credibly testified that she changed her business practices since the criminal act she committed in March 1999. Respondent left the business of being a mortgage broker and began working for a direct lender. She described this as a positive change. Respondent has worked for Countrywide as a home loan consultant and manager since March 2002. That position does not require her to maintain her real estate license because she qualifies buyers and gathers loan documentation only. She is currently supervised by Marlene Ville. Respondent received a certificate of award from Countrywide acknowledging her efforts for having the highest loan sales as a home loan consultant in the first quarter of 2006. She told her manager about her conviction because she was under a court order to do so. Her manager has been supportive and believes Respondent to have integrity.

9. Respondent has received several awards from the "Builder's Industry" in Rancho Cucamonga (Exhibit E) for her role on their membership committee in

2007. She helps the building industry raise money to advertise a home showcase, which helps them move their inventory.

10. Respondent completed her community service by volunteering for the National Foundation for Services to Children. In 2005 and 2006, Respondent previously volunteered at Worldworks, a leadership program which raises money for "Beyond Shelter" in Los Angeles. Respondent paid her \$5,000 fine in a timely manner.

11. There was no evidence Respondent suffered any other convictions or committed any other unlawful acts. There was no evidence of any previous or subsequent departmental license discipline against her.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend Respondent's real estate broker license, pursuant to Business and Professions Code section 490 and 10177, subdivision (b), for having a criminal conviction which is substantially related to the qualifications, functions or duties of a licensee under California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(2), (a)(4), and (a)(8), as set forth in Findings 3, 4 and 5.

2. Business and Professions Code section 490 authorizes the suspension or revocation of a license if the licensee is convicted of a crime which is substantially related to the qualifications, functions or duties of the licensed profession. Business and Professions Code section 10177, subdivision (b), authorizes the Commissioner to suspend or revoke a license when the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a real estate licensee.

3. California Code of Regulations, title 10, section 2910, subdivision (a)(1), specifies that a conviction is substantially related to the qualifications, functions or duties of a licensee when a licensee fraudulently takes the property of another. Section 2910, subdivision (a)(2), deems such a nexus exists when a licensee utters a false statement. Section 2910, subdivision (a)(4), deems a substantial relationship exists when the licensee employs fraud, deceit, falsehood or misrepresentation to achieve an end. Section 2910, subdivision (a)(8), specifies a nexus exists when a licensee commits an unlawful act intending to receive a financial benefit. Because Respondent presented a false check stub to HUD in order to receive financial compensation, her criminal conviction is substantially related to a real estate licensee under section 2910, subdivisions (a)(1), (a)(2), (a)(4) and (a)(8), as set forth in Findings 3, 4 and 5.

4. Respondent's conviction involves moral turpitude because she knowingly made a false statement to HUD for the purpose of receiving a financial benefit, which is an act of dishonesty.

5. As an extenuating factor, Respondent's divorce forced her into financial problems and pressures which led to her decision to commit fraud. However, this does not absolve her of responsibility for her misdeeds.

6. In evaluating Respondent's rehabilitation, there are several factors which are to be considered in determining the current level of risk she presents to the public as a real estate licensee.

7. Respondent has satisfied some of the Department's criteria for rehabilitation found at California Code of Regulations, title 10, section 2912, subdivisions (a) through (m). Two years have passed since Respondent's conviction, and almost ten years have passed since the criminal act occurred. (Subd. (a).) She completed her probation, paid her fines and performed her community service. (Subds. (e) and (g).) Respondent corrected her business practices. (Subd. (h).) She has developed a stable family life and she is supporting her adult son and two grandchildren. (Subd. (j).) Respondent established that she had a change in attitude from that which existed at the time of the commission of her crime. (Subd. (m).) However, Respondent's conviction has not been expunged because the federal system does not provide for expunging convictions. (Subd. (c).)

8. Respondent evinced a lack of trustworthiness when she presented the false pay stub to HUD to induce them to approve the mortgage insurance for her client. Honesty and integrity are essential characteristics of a real estate licensee, as set forth in *Golde v. Fox*, (1979) 98 Cal App 3d 167. A real estate licensee must possess the requisite honesty and integrity which is so critical to the profession. Real estate licensees working in the mortgage business obtain confidential financial information of their clients. Those licensees have great incentive to successfully process and close mortgage loans in order to receive their compensation. Here, Respondent's temptation to falsify a paycheck stub prevailed over her obligation to comply with the law. That criminal act occurred nearly 10 years ago, and there was no evidence of any previous or subsequent criminal wrongdoing. Respondent's fraudulent act was only discovered because the home buyer defaulted on the loan, and would have been otherwise undiscovered. While the federal court took Respondent's conduct seriously when it ordered Respondent to complete 100 hours of community service and to pay a \$5,000 fine, it was rather lenient when it imposed only a two-year criminal probation.

9. At the time she committed fraud, Respondent was a salesperson. Although she was supervised, this fraud went undetected. Respondent has acted as a broker since 2001, and brokers are typically unsupervised. Currently, Respondent is supervised at Countrywide, which is a direct lender and potentially provides an

environment which is less susceptible to the temptations to falsify loan documents in order to receive a commission. Since Respondent has worked as a broker, there is no evidence of any wrongdoing in that capacity.

10. Another factor to consider is the likelihood that Respondent will commit another such criminal act. This requires an evaluation of Respondent's good conduct over a lengthy period of time to determine whether she is able to conform her behavior in compliance with societal laws. Remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (See *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) A truer indication of rehabilitation is sustained good conduct over an extended period of time. (See *In re Menna* (1995) 11 Cal.4th 975, 991.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (See *Kwasnik v. State Bar* (1990) Cal.3d 1061, 1070.)


11. Respondent has expressed remorse for her conduct, and has otherwise been forthright when she testified about her act of mortgage loan fraud. It was a single incident during her twenty years of licensure. Respondent has otherwise demonstrated an ability to comply with the law since that time. She has satisfied the majority of the Department's criteria for rehabilitation. In considering all of the factors discussed above, and in assessing Respondent's conduct, testimony and demeanor, it appears unlikely that Respondent will transgress the law again. Nonetheless, her conduct justifies discipline against her license in order to protect the public interest, to ensure Respondent appreciates the implication of her criminal act, and to provide a deterrent to other licensees.

ORDER

WHEREBY THE FOLLOWING ORDER is hereby made:

The real estate broker license and licensing rights of Respondent Shannon Martinez are suspended for a period of 60 days from the effective date of this Decision.

Date: December 19, 2008


DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings

not adopted

LISSETE GARCIA, Counsel (SBN 211552)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6914

FILED
JULY 29, 2008
DEPARTMENT OF REAL ESTATE

By C. Baig

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-35170 LA
SHANNON MARTINEZ,)	<u>A C C U S A T I O N</u>
Respondent.)	
_____)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SHANNON MARTINEZ, aka Shannon Sullivan Martinez, Shannon Martinez Sullivan, Shannon Eugenia Martinez, Shannon Eugenia Baich, Shannon Rosa Baich, and Rosa Eugenia Martinez ("Respondent"), is informed and alleges in her official capacity as follows:

I

At all times herein mentioned, Respondent was and is presently licensed by the Department of Real Estate of the State of California ("Department") as a real estate broker under the Real Estate Law, Part 1 of Division 4 of the California Business

1 and Professions Code ("Code").

2 II

3 Pursuant to the provisions of Code Section 10153.3,
4 Respondent was originally licensed as a salesperson with the
5 Department on or about April 13, 1989. On or about April 19,
6 2001, Respondent was issued a real estate broker license.
7

8 III

9 On or about November 27, 2006, in the United States
10 District Court, Central District of California, Southern
11 Division, in the case of *USA v. Shannon Sullivan Martinez*, Case
12 No. SA CR 03-311(A)-AHS, as part of a plea agreement, Respondent
13 pled guilty to and was convicted of violating 18 U.S.C. §1012
14 (receiving compensation with intent to defraud HUD), a felony.
15 Said crime involves moral turpitude and bears a substantial
16 relationship to the qualifications, functions or duties of a
17 real estate licensee under Section 2910, Title 10, Chapter 6,
18 California Code of Regulations.
19

20 IV

21 The crime of which Respondent was convicted, as
22 alleged in Paragraph III above, constitutes cause under Code
23 Sections 490 and 10177(b) for the suspension or revocation of
24 all licenses and license rights of Respondent under the Real
25 Estate Law.

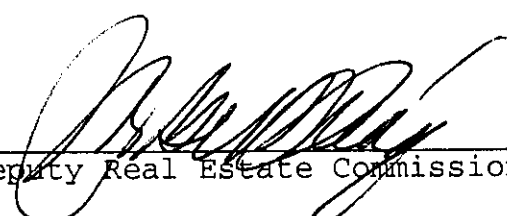
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent,
5 SHANNON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

9 Dated at Los Angeles, California

10 this 10th day of July, 2008.

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14 Deputy Real Estate Commissioner
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23 cc: Shannon Martinez
24 Maria Suarez
25 Sacto.
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