





1 the restricted license within ninety (90) days from the effective date of this Decision. The  
2 restricted license issued to Respondent shall be subject to all of the provisions of  
3 Section 10156.7 of the Code and to the following limitations, conditions, and restrictions  
4 imposed under Section 10156.6 of the 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 or  
7 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, the  
12 Subdivided Lands Law, Regulations of the Real Estate Commissioner, or the 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 five (5) years have elapsed from the effective date of this  
17 Decision and Order.

18 4. Respondent shall submit with any application for license under an  
19 employing broker, or any application for transfer to a new employing broker, a statement signed  
20 by the prospective employing real estate broker, on a form approved by the Bureau of Real  
21 Estate, which shall certify:

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

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

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1                   5. Respondent shall, within nine (9) months from the effective date of this  
2 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,  
3 since the most recent issuance of an original or renewal real estate license, taken and  
4 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the  
5 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this  
6 condition, Respondent's real estate license shall automatically be suspended until Respondent  
7 presents evidence satisfactory to the Commissioner of having taken and successfully completed  
8 the continuing education requirements. Proof of completion of the continuing education  
9 courses must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,  
10 Sacramento, CA 95813-7013.

11                   6. Respondent shall notify the Commissioner in writing within 72 hours of  
12 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate,  
13 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the  
14 date of Respondent's arrest, the crime for which Respondent was arrested and the name and  
15 address of the arresting law enforcement agency. Respondent's failure to timely file written  
16 notice shall constitute an independent violation of the terms of the restricted license and shall  
17 be grounds for the suspension or revocation of that license.

18                   7. All licenses and licensing rights of Respondent are indefinitely  
19 suspended unless or until Respondent pays the sum of \$1,376.10 for the Commissioner's  
20 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said  
21 payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate.  
22 The investigative and enforcement costs must be delivered to the Bureau of Real Estate,  
23 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of  
24 this Decision and Order.

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1                   8.     The restricted license issued to Respondent pursuant to this Stipulation  
2 and Agreement shall be suspended for thirty (30) days effective immediately on issuance of the  
3 restricted license.

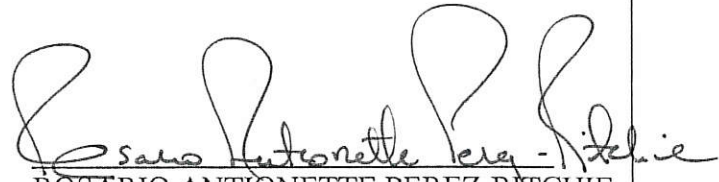
4  
5 DATED: 4-5-2016

  
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Steve Chu, Counsel  
Bureau of Real Estate

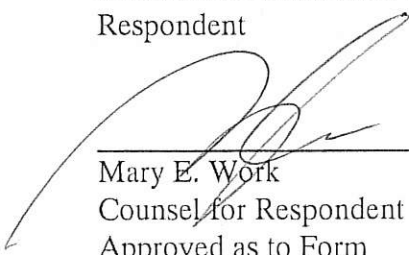
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8                   \* \* \*

9                   I have read the Stipulation and Agreement. I understand that I am waiving rights  
10 given to me by the California Administrative Procedure Act, (including but not limited to  
11 Sections 11521 and 11523 of the Government Code), and I willingly, intelligently, and  
12 voluntarily waive those rights, including the right to seek reconsideration and the right to seek  
13 judicial review of the Commissioner's Decision and Order by way of a writ of mandate. I can  
14 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement  
15 by faxing a copy of the signature page, as actually signed by me, to the Bureau at fax number  
16 (213) 576-6917. I agree, acknowledge and understand that by electronically sending to the  
17 Bureau a fax copy of my actual signature as it appears on this Stipulation and Agreement, that  
18 receipt of the faxed copy by the Bureau shall be as binding on me as if the Bureau had received  
19 the original signed Stipulation and Agreement.

20  
21 DATED: March 31, 2016

  
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ROSARIO ANTONETTE PEREZ-RITCHIE  
Respondent

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23  
24 DATED: 4/1/16

  
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Mary E. Work  
Counsel for Respondent  
Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted by me as my  
Decision in this matter as to Respondent ROSARIO ANTIONETTE PEREZ-RITCHIE, and  
shall become effective at 12 o'clock noon on May 31, 2016.

IT IS SO ORDERED 5/4/2016

WAYNE S. BELL  
REAL ESTATE COMMISSIONER



RECEIVED



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**FILED**

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BUREAU OF REAL ESTATE

By *[Signature]*

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BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	CalBRE No. H-39897 LA
ROSARIO ANTIONETTE PEREZ-RITCHIE,	)	OAH No. 2015070373
Respondent.	)	

NOTICE

TO: ROSARIO ANTIONETTE PEREZ-RITCHIE, Respondent, and MARY E. WORK, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 5, 2016, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 5, 2016, is attached hereto 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 17, 2015, and any written argument hereafter submitted on behalf of respondent and complainant.

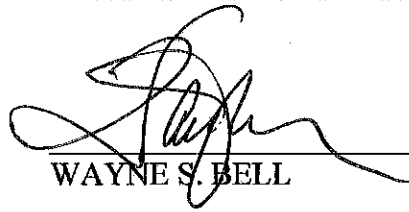
Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of December 17, 2015, at the Los Angeles

1 office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

2 Written argument of complainant to be considered by me must be submitted within  
3 15 days after receipt of the argument of respondent at the Los Angeles Office of the Bureau of Real  
4 Estate unless an extension of the time is granted for good cause shown.

5 DATED: 3/10/2016

6 REAL ESTATE COMMISSIONER

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10 WAYNE S. BELL

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BEFORE THE BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation of  
  
ROSARIO ANTIONETTE PEREZ-  
RITCHIE,  
  
Respondent.

Case No. H-39897 LA  
  
OAH No. 2015070373

**PROPOSED DECISION**

Administrative Law Judge Irina Tentser, State of California, Office of Administrative Hearings, heard this matter on December 17, 2015 in Los Angeles, California.

Steve Chu, Counsel for the Department of Consumer Affairs, Bureau of Real Estate (Bureau), represented Complainant.

Mary E. Work, Attorney, represented Rosario Antoinette Perez-Ritchie (Respondent), who was present.

Evidence was received. The record was held open until January 21, 2016, pursuant to agreement by the parties, to give Respondent an opportunity to submit evidence pertaining to the ruling on her motion to terminate probation in her criminal matter (Case No. 14WM03903) before the Superior Court of the State of California, County of Orange. The Superior Court granted the motion on January 20, 2016. Respondent timely submitted a copy of the Minute Order, which was marked and admitted as Exhibit L. Complainant did not submit a response.

The record closed and the matter submitted for decision on January 28, 2016.

**REDACTION OF PERSONAL IDENTIFYING INFORMATION**

Subsequent to the hearing, personal identification numbers were redacted from Exhibit L.

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## FACTUAL FINDINGS

1. Complainant Maria Suarez, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in her official capacity. Respondent filed a Notice of Defense requesting a hearing.

2. Respondent was issued a restricted salesperson license as a real estate salesperson, number S/01417022, on September 28, 2004. Her license is scheduled to expire on January 21, 2017.

3. On May 13, 2002, Respondent pled guilty and was convicted in the Superior Court of California, County of Orange, Case No. 02HM02916 MA, for violation of California Penal Code section 484, subdivision a-488 (petty theft), a misdemeanor.<sup>1</sup> Respondent was placed on one year of informal probation, ordered to serve one day in jail; and ordered to pay restitution, fines, and fees. Respondent's 2002 conviction has been expunged.

4. In 2004, Respondent was granted a restricted real estate license, described in factual finding 2, based on her 2002 petty theft conviction.

5. On April 30, 2012, Respondent petitioned the Bureau for removal of restrictions of her real estate salesperson license. On September 9, 2013, the Bureau granted Respondent's petition for removal on September 9, 2013. Respondent did not submit in a timely manner the necessary license fees to obtain her unrestricted license. As a result, Respondent's license continues to be restricted.

6. On July 16, 2014, in the Superior Court of California, County of Orange, case number 9JB07924, Respondent was convicted on her guilty plea of violating Penal Code section 484, subdivision (a) - 488 (petty theft), a misdemeanor. Respondent was placed on three years' summary probation, and ordered to pay restitution, fines and fees. On December 1, 2015, Respondent submitted a Petition for Dismissal pursuant to Penal Code section 1203.4, which is pending before the Superior Court of California, County of Orange. Respondent's request for early termination of probation, however, was granted on January 20, 2016.

7. a. On February 10, 2014, Respondent made a merchandise return and purchase at a Kohl's Department Store (Kohl). After the valid transactions, she shoplifted \$217.50 of merchandise from Kohl's, consisting of two bras, four pairs of underwear, and a robe. Respondent's theft was observed by Kohl's loss prevention officers, who detained Respondent after she left the store without paying for the items. After her detainment, Respondent voluntarily returned to Kohl's and admitted her theft to both Kohl's loss prevention officers and to the police. The store recovered all of the merchandise Respondent shoplifted.

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<sup>1</sup> Respondent's 2002 conviction was based on her theft of clothing merchandise, consisting of a blouse and a top from Macy's Department Store.

b. Respondent's 2014 shoplifting conviction, described in factual finding 7a, bears a substantial relationship to the qualifications, functions or duties of a real estate licensee under section 2910, Title 10, Chapter 6 of the California Code of Regulations.

8. At the time of the shoplifting incident, Respondent was under a great deal of stress, including, but not limited to: financial pressure to pay for her daughter's college tuition; ongoing financial disputes with her ex-husband since their 2000 divorce regarding support of their three children; a difficult and emotional unspecified family situation; and the fall-out of a failed 2011 business venture. Respondent's lack of a role model to manage difficult times, abandonment issues, and unresolved anger related to her 2000 divorce, contributed to her psychological inability to manage these stressors. Her shoplifting was an acting-out of her frustration and depression over her long-term struggle to provide for her three children as a single mother with limited emotional and financial support. Ultimately, Respondent's out-of-character shoplifting was a response to her unresolved and suppressed feelings of loss and loneliness.<sup>2</sup>

9. After her 2014 shoplifting conviction, Respondent took it upon herself to enroll in a program that specialized in the psychology of shoplifting. On April 8, 2015, Respondent began The Shoplifter's Alternative Course (Course) and successfully completed it on October 23, 2015. The Course is a 12 week educational and therapeutic counseling program comprised of five individual counseling sessions, five group sessions and two shoplifter's alternative aftercare support groups.

10. a. In the Course, Respondent gained insight into triggers that caused her to shoplift in the past in order to preempt future recurrence, addressed unresolved issues, learned more productive ways of managing stress, and gained insight how her shoplifting behavior negatively impacted the community at large. Kathy Escher (Escher), the Course's Program Director, testified at hearing in support of Respondent. Escher opined that Respondent's shoplifting was out-of-character behavior that was unlikely to recur because Respondent now knew the motivation for her crime. Escher further testified that Respondent's prognosis was good to excellent, - pointing to research that found the rate of recidivism for shoplifting program participants was fewer than four to five percent.

b. Escher recommended that Respondent attend the Shoplifter's Alternative aftercare program for at least six months, which includes attendance at one monthly Shoplifter's Alternative aftercare support group and periodic counseling sessions as needed. The aftercare program solidifies all that Respondent learned in the Course.

11. a. Respondent presented two additional witnesses at hearing in support of her continued licensure. Sergeant Ron La Velle of the Seal Beach Police Department (Sgt.

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<sup>2</sup> The motivation of Respondent's criminal conduct were established through the testimony of her treating analyst, Kathy Escher, MA, MFT.

La Velle) attested to Respondent's critical community involvement in the management, oversight, and mentorship of the Miss Seal Beach court. St. La Velle is aware of Respondent's 2014 shoplifting conviction and would not hesitate to recommend Respondent to his friends who are seeking a real estate salesperson. He believes that Respondent accepts responsibility for her actions, is remorseful, and is passionate about her dream job of selling real estate.

b. Barry C. Binder (Binder), owner and president of REMAX College Park Realty (CPR), where Respondent has been employed as a salesperson since 2004, also testified in support of Respondent. Respondent was in the top 25 percent of the 200 real estate salespeople that Binder employed at six different locations. Binder was aware of Respondent's 2002 shoplifting conviction and testified that Respondent joined his company with a restricted real estate salesperson license. Binder testified to Respondent's capability to serve clients and provide positive community efforts as the organizer of the Miss Seal Beach pageant. He indicated that Respondent, because of her high level of competency, would continue to be employed at his company as a real estate agent on a restricted real estate license despite her 2014 conviction for. During the 10 years in Binder's employ, no clients have lodged any complaints alleging Respondent has stolen from their homes.

12. a. Respondent submitted five letters of recommendation that support her continued licensure. Bridgette Schauwecker, Designated Officer, of CPR wrote that she was aware of the Bureau's pending Accusation, but was happy to continue to employ Respondent provided she remained licensed by the Bureau. Montgomery Cole (Cole) of Madden, Jones, Cole & Johnson, is an attorney who has worked with Respondent on various real estate transactions over the past few years. His letter attested to her ethical standards, wonderful rapport with clients, and described Respondent's recent honor as Volunteer of the Year for 2015 by the Seal Beach Chamber of Commerce based on her involvement with the Miss Seal Beach organization. R. Duane Westrup (Westrup) of Westrup & Associates has known Respondent since 2009. Westrup wrote that Respondent has expressed remorse about her past actions and has taken steps to rehabilitate. Westrup further described Respondent as a credit to her profession, attested to Respondent's commitment to her real estate practice, and described how Respondent goes out of her way to help the elderly and disabled complete transactions at no cost. Respondent's daughter provided a letter that expressed her love and gratitude towards Respondent's for her hard work and commitment towards her three children.

b. Marcella McSorley, PhD,'s letter of nomination to the Cypress College Foundation's American Awards Committee in support of Respondent for their Citizen of the Year program described Respondent's significant community involvement including, but not limited to Respondent's roles as: Director of Miss Seal Beach Pageant Program; founder of Los Alamitos High School No Bully Photography and Video Shoot Program; frequent contributor to prepare breakfast for Ronald McDonald House Guests; founder of Thanksgiving Day "Photographs with Indians and Pilgrims" at St. Anne's Catholic Church; Long Beach Press Telegram's "25 Most Successful Business Women;" Seal Beach Chamber of Commerce Board of Directors Member; Seal Beach Lions Club Member; Sun Newspaper Contributing Author; Co-Chair of Seal Beach Christmas Lighting Event; founder of the Band of the Sand Independence Day Celebration; participant in all Seal Beach Chamber of Com-

merce ribbon cuttings and business mixers; contributor to the Seal Beach Police Department Awards Luncheon, Tip A Cop event, and National Night Out; and contributor to the Seal Beach Car Show, the Seal Beach 5k/10k Run, the Seal Beach Lions Club Fish Fry, the Seal Beach Christmas Parade, the Seal Beach Lions Club Golf Tournament, and every Seal Beach Block Party to Benefit Victims of the Salon Meritage Shootings.

13. Respondent, now age 50, knew at the time of her crimes, and still knows, that what she did was wrong, and feels very remorseful and ashamed. Respondent is passionate about her profession, where she has earned various certificates of achievement. She is dedicated to her community, through her significant involvement with the Miss Seal Beach program. Respondent is a devoted and committed mother to her three children, for whom she has provided for the past 15 years as a single mother. She is committed to using the tools of her recovery not to repeat her past crimes.

14. The Bureau incurred reasonable costs of enforcement and investigation in this matter, under Business and Professions Code section 10106, in the total amount of \$1376.10.

#### LEGAL CONCLUSIONS

1. The Bureau has established cause to discipline Respondent's license under Business and Professions Code sections 490, and 10177, subdivision (b), based on Respondent's conviction of a crime substantially related to the qualifications, functions, and duties of a real estate salesperson pursuant to California Code of Regulations, title 10 (Regulation), section 2910, subdivision (a)(8). (Factual Findings 6 and 7.)

2. Respondent's rehabilitative progress does not warrant outright revocation of her real estate salesperson license, which would be too harsh and unnecessary to protect the public. Respondent has fulfilled many of the criteria set forth in Regulation section 2912, and importantly, has accepted full responsibility for her conduct. (Factual Findings 9, 10, and 13.) (*See Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940; *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058 (fully acknowledging previous wrongdoing is critical to rehabilitation).) Respondent established that she enjoys enthusiastic support for her continued licensure from her employer, her children, and her community. (Factual Findings 11 and 12.) In addition, Respondent demonstrated that her attitude is different today than it was at the time of her criminal acts because she has gained the necessary insight through counseling to manage her emotions and stress, without engaging in shoplifting. (Factual Findings 8-10, and 13.) (Regulation § 2912, subs. (i) and (m).)

3. While Respondent's conviction is less than two years old, (Regulation § 2912, subd. (a)), the evidence is compelling that her crime is unlikely to occur again based on Respondent's completion of the Course and ongoing treatment, as recommended by Escher. (Factual Findings 9 and 10.) Kohl's recovered all the merchandise Respondent shoplifted. (Factual Finding 7.) (Regulation § 2912, subd. (b).) Respondent fulfilled all of the conditions of her probation which was terminated early and most likely will be followed by



the dismissal of the criminal matter under Penal Code section 1203.4 as a result of Respondent's pending court motion. (Factual Finding 6), (Regulation § 2912, subds. (c), (e), and (g).)

4. Respondent has a positive and committed relationship with her children. (Factual Finding 8.) (Regulation § 2912, subd. (j).) Respondent has completed the Course and thereby gained understanding of the psychological reasons for her criminal behavior. (Factual Findings 8-10, and 13.) (Regulation § 2912, subd. (k).) Additionally, Respondent remains substantially involved with her community. (Factual Finding 8.) (Regulation § 2912, subd. (l).)

5. In total, Respondent has made sufficient rehabilitative progress to warrant discipline short of revocation. However, a short 10 day period of suspension is necessary for Respondent to fully grasp the seriousness of her past transgressions. The public will be adequately protected by the extension of Respondent's period of restricted and probationary licensure for a period of five years, pursuant to terms and conditions providing for additional discipline, up to and including revocation, should Respondent suffer an additional conviction. Importantly, Respondent's continued recovery and commitment to rehabilitation will be supported by the condition that she continue to receive treatment in the Course's Shoplifter's Alternative aftercare program for the recommended six month period. (Factual Finding 10b.)

6. *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, sets forth factors to be considered in determining a reasonable cost assessment for disciplined licensees. Factors to be considered include whether the licensee had a "subjective good faith belief" in the merits of his or her position, whether the licensee raised a "colorable challenge" to the proposed discipline, and the extent of the licensee's financial ability to make later payments. Further, full costs may not be assessed when a "disproportionately large investigation" was conducted given the circumstances of the case. Finally, the Administrative Law Judge should consider the public interest in regulating the targeted conduct.

Based on factual finding 14, in conjunction with an analysis pursuant to the factors set forth in *Zuckerman*, a cost assessment of \$1,376.10 represents a reasonable amount to impose on Respondent.

#### ORDER

1. The restricted real estate salesperson license number S/01417022, issued to Respondent Rosario Antionette Perez-Ritchie pursuant to Stipulation and Waiver in case number H-30908 LA, L-2004060360, is extended for five years from the effective date of this Decision. Provided, however, that said license shall be suspended for a period of 10 days from the effective date of this Decision. The previous terms and conditions of license restriction shall be superseded. The new terms and conditions of restriction shall be subject

to all of the provisions of Section 10156.7 of the Business and Professions Code and include 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 five 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:

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

(ii) 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.

(f) Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of

Respondent's arrest, the crime for which Respondent was arrested, and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

(g) Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has participated and successfully completed the Course's Shoplifter's Alternative aftercare program for at least six months, which includes attendance at one monthly Shoplifter's Alternative aftercare support group and periodic counseling sessions as needed. 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.

2. Respondent shall pay costs to the Bureau in the amount of \$1376.10 within 90 days of the effective date of this Decision.

Dated: February 5, 2016.

DocuSigned by:  
*Irina Tentser*  
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Irina Tentser  
Administrative Law Judge  
Office of Administrative Hearings