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BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JOHANA Z. CARPIO,

Respondent.

) Case No. H-40002 LA

) OAH No. 2015110553

DECISION AFTER REJECTION

This matter was heard by Matthew Goldsby, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, State of California, on July 7, 2016, in Los Angeles, California.

Diane Lee, Counsel for the Bureau of Real Estate ("Bureau"), represented Complainant Veronica Kilpatrick ("complainant"), a Supervising Special Investigator for the Bureau. Respondent Johana Z. Carpio ("respondent") appeared personally and represented herself.

Oral and documentary evidence was received, and argument was heard.

The parties submitted the matter for decision at the conclusion of the hearing on July 7, 2016.

On July 25, 2016, the ALJ issued a Proposed Decision which I declined to adopt as my Decision herein.

1 Pursuant to California Government Code section 11517(c), Respondent was
2 served with notice of my determination not to adopt the Proposed Decision of the ALJ along
3 with a copy of said Proposed Decision. Respondent was notified that I would decide the case
4 upon the record, the transcript of proceedings held on July 7, 2016, and upon any written
5 argument offered by respondent and complainant. Respondent and complainant each
6 submitted argument.

7 Pursuant to Government Code section 11521, the Bureau of Real Estate may
8 order reconsideration of this Decision on petition of any party. The Bureau's power to order
9 reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the
10 effective date of this Decision, whichever occurs first. The right to reinstatement of a
11 revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of
12 the Government Code. A copy of Sections 11521 and 11522 and a copy of the
13 Commissioner's Criteria of Rehabilitation are attached hereto for the information of
14 Respondent.

15 I have given careful consideration to the record in this case, including the
16 transcript of proceedings of July 7, 2016. I have also considered the arguments submitted by
17 respondent and by complainant. The following shall constitute the Decision of the Real
18 Estate Commissioner ("Commissioner") in this proceeding:

19 FACTUAL FINDINGS

20 The Factual Findings in ALJ Goldsby's Proposed Decision dated July 25,
21 2016, are hereby adopted as a part of this Decision.

22 LEGAL CONCLUSIONS

23 The Legal Conclusions in ALJ Goldsby's Proposed Decision dated July 25,
24 2016, are hereby adopted as a part of this Decision with the following addition:

25 13. Business and Professions Code section 10086 provides as follows: "The
26 commissioner may also require, as a condition precedent to the issuance of a restricted
27 license or restricted mortgage loan originator license endorsement, that the licensee pay

1 monetary restitution to any person who sustained damages by reason of the act or acts that
2 led to the discipline imposed by the commissioner.”

3 14. Complainant proved by clearing and convincing evidence that respondent
4 was paid an advance fee of \$750 for loan modification services and received \$985 to make
5 Susan’s January 2013 mortgage payment for a total of \$1,733. (Factual Finding 8.)

6 ORDER

7 WHEREFORE, THE FOLLOWING ORDER is hereby made:

8 I. All licenses and licensing rights of respondent Johana Z. Carpio under the
9 Real Estate Law are revoked; provided, however, a restricted real estate salesperson license
10 shall be issued to respondent Johana Z. Carpio pursuant to Business and Professions Code
11 section 10156.5 if respondent makes application therefor and pays to the Bureau the
12 appropriate fee for the restricted license within 90 days from the effective date of this
13 Decision and Order. The restricted license issued to the respondent shall be subject to all of
14 the provisions of Section 10156.7 of the Business and Professions Code and to the following
15 limitations, conditions and restrictions imposed under authority of Section 10156.6 of said
16 Code:

17 1. The restricted license issued to respondent may be suspended prior to
18 hearing by Order of the Commissioner in the event of respondent's conviction or plea of nolo
19 contendere to a crime which is substantially related to respondent's fitness or capacity as a
20 real estate licensee.

21 2. The restricted license issued to respondent may be suspended prior to hearing
22 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
23 respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
24 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
25 license.

26 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
27 real estate license nor for removal of any of the conditions, limitations or restrictions of a

1 restricted license until two (2) years have elapsed from the effective date of this Decision and
2 Order.

3 4. Respondent shall submit with any application for license under an employing
4 broker, or any application for transfer to a new employing broker, a statement signed by the
5 prospective employing real estate broker on a form approved by the Bureau which shall certify:

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

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

11 5. Respondent shall, prior to the issuance of the restricted license and as a
12 condition of the issuance of said restricted license, submit proof satisfactory to the
13 Commissioner of payment of restitution in the amount of \$1,733 (\$750 loan modification and
14 \$983 mortgage payment) to Susan Frank. If restitution cannot be paid to Susan Frank,
15 respondent shall pay the sum into the California State Controller's Unclaimed Property
16 Division.

17 6. Respondent shall notify the Commissioner in writing within 72 hours of any
18 arrest by sending a certified letter to the Bureau of Real Estate, Flag Section at P.O. Box
19 137013, Sacramento, California 95813-7013. The letter shall set forth the date of respondent's
20 arrest, the crime for which respondent was arrested and the name and address of the arresting
21 law enforcement agency. Respondent's failure to timely file written notice shall constitute an
22 independent violation of the terms of the restricted license and shall be grounds for the
23 suspension or revocation of that license.

24 II. Respondent shall, within nine (9) months from the effective date of this
25 Decision and Order, present evidence satisfactory to the Commissioner that respondent has,
26 since the most recent issuance of an original or renewal real estate license, taken and
27 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of

1 the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this
2 condition, respondent's real estate license shall automatically be suspended until respondent
3 presents evidence satisfactory to the Commissioner of having taken and successfully
4 completed the continuing education requirements. Proof of completion of the continuing
5 education courses must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
6 137013, Sacramento, CA 95813-7013.

7 III. All licenses and licensing rights of respondent are indefinitely suspended
8 unless or until respondent pays the sum of \$1,513 for the Commissioner's reasonable cost of
9 the investigation and enforcement which led to this disciplinary action. Said payment shall be
10 in the form of a cashier's check made payable to the Bureau of Real Estate. The investigative
11 and enforcements costs must be delivered to the Bureau of Real Estate, Flag Section at P.O.
12 Box 137013, Sacramento, California 95813-7013, prior to the effective date of this Decision
13 and Order.

14 This Decision shall become effective at 12 o'clock noon on JAN 30 2017.

15 IT IS SO ORDERED Jan. 2, 2017.

16
17 REAL ESTATE COMMISSIONER

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19 _____
20 Wayne S. Bell
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7/25/16

FILED

SEP 08 2016

BUREAU OF REAL ESTATE

By [Signature]

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of) CalBRE No. H-40002 LA
JOHANA Z. CARPIO,)
Respondent.) OAH No. 2015110553

NOTICE

TO: JOHANA Z. CARPIO, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 25, 2016, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 25, 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 Thursday, July 07, 2016, 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 Thursday, July 07, 2016, at the Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

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

4 DATED: 9/2/2016.

5 REAL ESTATE COMMISSIONER

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7 
8 WAYNE S. BELL

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOHANA Z. CARPIO,

Respondent.

Case No. H-40002 LA

OAH No. 2015110553

PROPOSED DECISION

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on July 7, 2016, at Los Angeles, California.

Diane Lee, Counsel for the Bureau of Real Estate (Bureau), appeared and represented complainant Veronica Kilpatrick, a Supervising Special Investigator of the State of California.

Respondent Johana Z. Carpio appeared and represented herself.

The parties submitted the matter for decision at the conclusion of the hearing on July 7, 2016.

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity, alleging causes for discipline based on advance fee violations and unlicensed activities. Respondent timely submitted a Notice of Defense.
2. On June 12, 2007, the Bureau issued to respondent conditional salesperson license number S/01808474. Respondent's license is valid and is scheduled to expire on June 11, 2019.
3. Susan Frank (Susan) owned two residential properties in Beaumont, California, located at 952 Elm Avenue (Rental Property) and 1053 Elm Avenue (Primary Residence). Susan lived in the Primary Residence, which was encumbered with a secured loan to Wells Fargo Bank in the original principal amount of approximately \$119,000.
4. The Rental Property was encumbered with a secured loan to Bank of America, in the original principal amount of approximately \$265,000. In 2011, Susan was renting the

Rental Property to her sister Shirley Machado (Shirley), her nephew Jeff Mills (Jeff), and Jeff's daughter Kalley Carpio¹ (Kalley).

5. In April 2011, Susan requested respondent to help her apply for loan modifications with Wells Fargo Bank and Bank of America. Susan had heard that respondent successfully applied for a loan modification on her own account as a homeowner. Respondent verbally agreed to assist Susan, but they executed no written professional service agreement.

6. Wells Fargo Bank converted Susan's secured loan on the Primary Residence into a 40-year loan and deferred payment of arrearages in the amount of \$49,000, reducing Susan's monthly payments on her Primary Residence.

7. On April 12, 2011, Susan wrote a handwritten letter to Bank of America, authorizing respondent to speak on her behalf in relation to the Rental Property and her loan modification application that had been pending "for 18 months now." (Ex. 5.) Respondent testified that she made several calls to the bank on behalf of Susan and always in Susan's presence.

8. There was a conflict in the evidence as to whether Susan gave respondent cash to make monthly payments to Bank of America and to compensate respondent for loan modification services. Complainant proved by clear and convincing evidence that respondent was paid an advance fee of \$750 for loan modification services and received \$983 to make Susan's January 2013 mortgage payment. This factual finding was determined after taking into account and weighing evidence as follows:

(A) A police report includes notes from Officer Kelly Nava's interview of respondent. During the interview, respondent admitted to the officer that she "agreed to help [Susan] with her modification," that "she charged [Susan] \$1500 . . . [who] was supposed to give her \$1500 but only paid \$750," and that "payments made to her by [Susan] were for time she put into attempting to modify the loan." (Ex. 3, p. 35.) Respondent's admission to the reporting police officer falls within the party admission exception to the hearsay rule and is admissible to prove the matter asserted. (*Lake v. Reed* (1997) 16 Cal. 4th 448.)

(B) A handwritten document, dated January 3, 2013, stated: "I Johana Carpio received \$983.00 from Susan Frank to make Bank of America payment for January." (ex. 3, p. 18.) The document was signed in the name "Johana Carpio," but the signature bears no resemblance to the signature on respondent's renewal application or continuing education course verification. However, the rest of the handwriting on the receipt resembles the handwritten portions of respondent's renewal application and continuing education course verification. The evidence is sufficient to authenticate the writing (except for the signature) as having been written in respondent's handwriting and is admissible to prove its

¹ Kalley is currently married to respondent's son Adam Carpio (Adam).

contents as a statement against respondent's interest.² Nonetheless, the evidence does not establish that respondent was paid an advance fee for loan modification services; the receipt of cash was expressly intended for the purpose of making a mortgage payment.

(C) Respondent denied that she was compensated or received any cash from Susan to make mortgage payments. Respondent's husband and Kalley testified that they never observed respondent receiving the alleged cash payments. Susan testified that she regularly gave respondent cash to make loan payments on her pending loans, not in furtherance of her loan modification applications or to follow any strategy advised by respondent. Rather, Susan testified that she gave respondent cash to make her loan payments "so it would not cause [Susan] stress." Susan's testimony was not corroborated by any bank records to show cash withdrawals in the alleged amounts. Complainant presented the testimony of Susan's three sisters, supporting Susan's testimony and refuting respondent's denial. All conflicting testimony appeared to be motivated by intra-family hostility and bias, and none of the testimony was deemed reliable.³

(D) A typewritten document, dated July 24, 2012, stated: "Susan Frank gave me \$1,000 for [Wells Fargo Bank] modification on the 1st mortgage ONLY and \$500 for [B]ank of America modification and today she gave me \$500 to pay in full for the loan modification on the [B]ank of America loan." (Ex. 3, p. 16.) The document includes respondent's name in type, but no signature. Complainant claimed that the typed document was prepared by respondent. Respondent testified under oath and subject to cross examination, and denied preparing the typed document. Respondent's direct testimony is given greater weight than complainant's hearsay evidence. Moreover, the writing warrants little weight as administrative hearsay for lack of authenticating evidence to sustain a finding that the document was a written receipt prepared by respondent.

9. On February 2, 2012, Susan's husband died after a period of suffering from multiple sclerosis. In August 2012, Susan suffered the first of two strokes.

10. Kalley credibly testified that she and her father Jeff "got into a big fight" before Kalley turned 18 years old. Respondent took Kalley to the police station and called the Department of Children and Family Services. Respondent invited Kalley to move into respondent's household. In 2012, neither Jeff nor Kalley were occupying the Rental Property or paying rent to Susan.

² The genuineness of handwriting may be proved by a comparison made by the trier of fact with handwriting (a) which the court finds was admitted or treated as genuine by the party against whom the evidence is offered or (b) otherwise proved to be genuine to the satisfaction of the court. (Evid. Code, § 1417.)

³ In determining the credibility of a witness, the administrative law judge may consider any matter that has any tendency in reason to prove or disprove the truthfulness of the witness's testimony at the hearing, including bias or other motive. (Evid. Code, § 780, subd. (f).)

11. On December 1, 2012, respondent entered into an independent contractor agreement with Re/Max Premium, a broker that does not offer loan modification services. Respondent agreed to serve as a salesperson on behalf of the broker and to submit all Real Estate Service Agreements to the broker within one business day after receipt. Respondent agreed to abide by all laws relating to real estate transactions. The broker's designated officer was Jose Garcia-Yanez, who filed an affidavit dated October 13, 2015, verifying that he had no personal knowledge that respondent was engaging in loan modification services and that he did not receive any funds or payments from respondent in connection with loan modification services.

12. On March 13, 2013, Susan wrote a handwritten letter to Bank of America, authorizing respondent to speak on her behalf in relation to her loan modification application and referring to respondent as "our niece." (Ex. 5.)

13. On July 5, 2013, Bank of America issued a Notice of Intent to Accelerate, reflecting 32 unpaid monthly charges and late fees in the total amount of \$53,130.97. Susan testified that she did not know the loan was in default until she received the notice. Her testimony is disbelieved as inherently improbable because the number of actual unpaid monthly charges exceeds the number of alleged cash payments given to respondent, and dates back to December 1, 2010, before respondent became involved.

14. On July 15, 2013, Susan filed a consumer complaint with the Bureau in connection with the Rental Property. Susan alleged that she "dropped off cash at [respondent's] home" and that respondent had "taken money from people only to have their home foreclosed on." (Ex. 4.) In its investigation of the complaint, the Bureau requested a written explanation from respondent and the designated officer at Re/Max Premium. Jose Garcia-Yanez wrote, "We are unable to supply you with documents regarding [Susan] as our company has not been involved in any form of transaction with her." Respondent wrote, "I never received in any shape or form any monetary compensation from [Susan]." (Ex. 6.)

15. On October 7, 2013, Susan completed a Real Estate Fraud Complaint Form in relation to the Rental Property and filed it with the office of the Riverside County District Attorney. Susan alleged respondent collected in excess of \$7,000 in cash from her and did not complete the necessary paperwork for the modification. In response to a subpoena, Bank of America produced its mortgage file, consisting of 1,614 pages of documents. Officer Nava reviewed the file and "did not see any notes where Bank of America was ever contacted by [respondent] on behalf of [Susan]." (Ex. 3, p. 8.) At the conclusion of its investigation, the District Attorney did not charge respondent with any crime.

16. On November 13, 2013, respondent was employed as a salesperson at Real Estate Masters, a broker that does not offer loan modification services. The broker's designated officer was Damon Burns, who filed an affidavit dated October 9, 2015, verifying that he had no personal knowledge that respondent was engaging in loan modification services and that he did not receive any funds or payments from respondent in connection with loan modification services.

17. On August 24, 2014, Susan sold the Rental Property in a "short sale."⁴ As to the Primary Residence, Susan testified that she was unable to pay Wells Fargo Bank the deferred arrearages, that she had "turned over the keys" one week before the hearing, and that a trustee's sale was scheduled on July 13, 2016.

18. Devine Realty Group Inc. currently employs respondent as a salesperson. Complainant presented no documentary evidence, such as business cards, flyers, or website printouts, to show that respondent was advertising loan modification services as a representative of any broker or that she engaged in loan modification services for anyone other than Susan.

19. Respondent never held a mortgage loan broker's license and never performed loan modification services under the supervision of a broker. She has taken no courses on loan modification services. Respondent has no history of license discipline, and no evidence was presented to show that respondent has any criminal record or employment discipline.

20. The Bureau incurred reasonable costs in the amount of \$1,513 in its investigation and enforcement of this matter.

LEGAL CONCLUSIONS

1. Respondent's license is a professional license and complainant has the burden to prove cause for discipline by clear and convincing evidence. (*Imports Performance v. Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911.)

2. Business and Professions Code sections 10085.5, subdivision (a), provides: "It shall be unlawful for any person to claim, demand, charge, receive, collect, or contract for an advance fee (1) for soliciting lenders on behalf of borrowers or performing services for borrowers in connection with loans to be secured directly or collaterally by a lien on real property, before the borrower becomes obligated to complete the loan or, (2) for performing any other activities for which a license is required, unless the person is a licensed real estate broker and has complied with the provisions of this part."

3. Business and Professions Code sections 10085.6, subdivision (a), provides: "Notwithstanding any other provision of law, it shall be unlawful for any licensee who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation paid by the borrower, to do any of the following: (1) Claim, demand, charge, collect, or receive any compensation until after the licensee has fully performed each and every service the licensee contracted to perform or represented that he, she, or it would

⁴ A "short sale" is a sale of real property that generates sales proceeds in an amount less than the balance owed on debts secured by liens against the property. A short sale is subject to the consent of the secured creditor to accept a loss on a debt in lieu of foreclosure.

perform. (2) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation. (3) Take any power of attorney from the borrower for any purpose."

4. Business and Professions Code sections 10130, subdivision (a), provides: "It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement."

5. The Bureau may temporarily suspend or permanently revoke a real estate license at any time where the licensee performs or attempts to perform any acts requiring a license and: (A) makes a substantial misrepresentation; (B) makes a false promises of a character likely to influence, persuade, or induce; or (C) engages in fraud or dishonest dealing. (Bus. & Prof. Code, § 10176, subds. (a), (b), and (i).)

6. In this case, respondent testified that she helped Susan with her loan modifications. Attempting to negotiate a loan modification is an activity for which a broker's license is required. Because respondent was licensed only as a salesperson and was not engaging in loan modification services under the supervision of a broker, she violated Business and Professions Code sections 10085.5, subdivision (a)(2). Respondent admitted to a police officer that, for her time to perform these services, she charged Susan \$1,500 and was paid \$750, "a fee or other compensation" in violation of Business and Professions Code sections 10085.6, subdivision (a).

7. Cause exists to discipline respondent's license under Business and Professions Code sections Business and Professions Code sections 10085.5, subdivision (a), 10085.6, subdivision (a), and 10130, subdivision (a), because she charged and collected an advance fee for real estate services and engaged in unlicensed activities by assisting Susan with her applications for loan modifications without the supervision of a broker. (Factual Findings 5, 6, 7, 8(A), 11, 16, and 19.)

8. California Code of Regulations, title 10, section 2912, sets forth criteria developed by the Bureau for the purpose of evaluating the rehabilitation of a licensee when considering the revocation or suspension of the license as the result of a crime committed by the licensee. In this case, respondent committed no crime. More than two years have passed since respondent engaged in the offensive conduct and no evidence was presented to show that respondent performed loan modification services for any other consumer.

9. Complainant presented the affidavits of two employing brokers who had no personal knowledge of respondent's activities and argued that respondent was concealing the unauthorized practice of loan modification and engaging in fraud or dishonest dealings. However, the affidavits more directly support respondent's testimony that she has not actively engaged loan modification services, except to the extent that she offered to assist Susan. Although respondent charged a fee for her time, the conduct of Susan and respondent

did not otherwise demonstrate an entirely professional relationship. Susan sought respondent's help, not based on respondent's license and professional experience, but based on Susan's understanding that respondent has successfully accomplished the desired result as a homeowner. The parties executed no written professional service agreement. Susan held out respondent to financial institutions not as her professional representative, but as her "niece."

10. The purpose of this administrative proceeding is not to impose punishment, but rather to protect the public. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) The goal is the prevention of future harm and the improvement and rehabilitation of the licensee. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757.) Imposing the maximum penalty of license revocation would be unduly punitive because the weight of the evidence does not indicate that respondent poses a substantial risk of harm to the public. The facts and circumstances of this action appear rooted in bitter family discord and disappointment. Susan suffered personal losses, including the death of her husband, the loss of her tenants, and the forfeiture of her two properties. Her health suffered from stress and two strokes. However, the evidence is insufficient to show that respondent's activities directly or indirectly caused any of Susan's losses or injuries. The weight of the evidence does not exhibit a pattern or scheme of unauthorized practice by respondent. No evidence was presented to show that respondent has any criminal record or employment discipline and she has no history of prior discipline. Accordingly, probationary restrictions will adequately protect the public and allow the Bureau to monitor respondent's ongoing compliance with the Real Estate law and continuing rehabilitation,

11. A licensee's violation of the licensing act entitles the Bureau to recover all reasonable costs incurred to investigate and prosecute the violation. (Bus. & Prof. Code, § 10106.)

12. Complainant has presented satisfactory proof that the Bureau incurred reasonable costs in the amount of \$1,513 to investigate and enforce the case against respondent by reason of Finding 20. Accordingly, respondent is liable under Business and Professions Code section 10106 to pay the Bureau the sum of \$1,513.

ORDER

All licenses and licensing rights of respondent Johana Z. Carpio under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays 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 Business and Professions Code Section 10156.7 and to the following limitations, conditions, and restrictions:

1. 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 the respondent's fitness or capacity as a real estate licensee.
2. 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 of the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or the removal of any of the conditions of the restricted license, until no less than two years have elapsed from the effective date of this Decision.
4. 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.
5. 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
6. Respondent shall pay the Bureau the sum of \$1,513, at such time and in such manner as the Bureau, in its discretion, may direct.

DATED: July 25, 2016

DocuSigned by:
Matthew Goldsby
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MATTHEW GOLDSBY
Administrative Law Judge
Office of Administrative Hearings