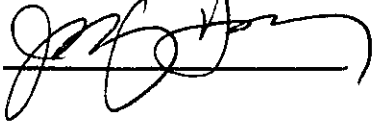


58270
92/AS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
NOV 14 2003

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
ROSE BRIGGITTE PINKUS,	NO. H-29711 LA
Respondent.	L-2002110174

DECISION AFTER RECONSIDERATION

On September 25, 2003, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate broker license and license rights of Respondent, ROSE BRIGGITTE PINKUS. Said Decision was to become effective on October 20, 2003, (and was stayed by separate Order to November 19, 2003.)

On October 20, 2003, Respondent petitioned for reconsideration of said Decision. I have considered the petition of Respondent and have concluded that good cause has been presented for reconsideration of the Decision of September 25, 2003, for the limited purpose of determining whether the disciplinary action therein imposed should be reduced.

///

1 I have reconsidered said Decision and it is hereby
2 ordered that the disciplinary action therein imposed against
3 the real estate broker license of ROSE BRIGGITTE PINKUS
4 be reduced by modifying the Order of said Decision to read as
5 follows:
6

7 ORDER

8
9 All licenses and licensing rights of Respondent ROSE
10 BRIGGITTE PINKUS under the Real Estate Law are revoked; provided,
11 however, a restricted real estate salesperson license shall be
12 issued to Respondent pursuant to Section 10156.5 of the Code if
13 Respondent makes application therefor and pays to the Department
14 of Real Estate the appropriate fee for the restricted license
15 within 90 days from the effective date of this Order. The
16 restricted salesperson license issued to Respondent shall be
17 subject to all of the provisions of Section 10156.7 of the Code
18 and to the following limitations, conditions and restrictions
19 imposed under authority of Section 10156.6 of said Code:

20 1. The restricted license issued to Respondent shall
21 not confer any property right in the privileges exercised, and
22 the Real Estate Commissioner may, by appropriate order and prior
23 to a hearing, suspend the right to exercise any privileges
24 granted under this restricted license in the event of:

25 (a) Respondent's conviction (including a plea of
26 nolo contendere) to a crime which is substantially related to
27 Respondent's qualifications, fitness or capacity as a real estate
licensee.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

(b) The receipt of evidence satisfactory to the
Commissioner that Respondent has violated provisions of the
California Real Estate Law, the Subdivided Lands Law, Regulations
of the Real Estate Commissioner, or the conditions attaching to
this restricted license.

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

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

(a) That the employing broker has read the Decision
which is the basis for the issuance of the restricted license;
and

(b) That the employing broker will carefully review
all transaction documents prepared by the restricted licensee and
otherwise exercise close supervision over the licensee's
performance of acts for which a license is required.

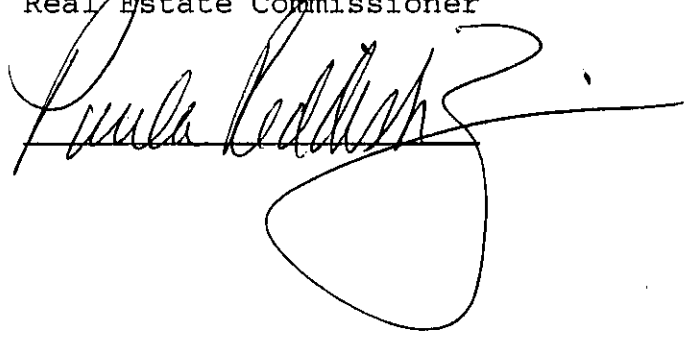
////
////
////
////
////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

As hereby modified and amended, the Decision of
September 25, 2003, shall become effective at 12 o'clock noon
on December 4, 2003.

IT IS SO ORDERED November 12, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
OCT - 9 2003

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-29711 LA
ROSE BRIGGITTE PINKUS,)	L-2002110174
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On September 25, 2003, a Decision was rendered in the above-entitled matter to become effective October 20, 2003.

IT IS HEREBY ORDERED that the effective date of the Decision of September 25, 2003, is stayed for a period of thirty (30) days.

The Decision of September 25, 2003, shall become effective at 12 o'clock noon on November 19, 2003.

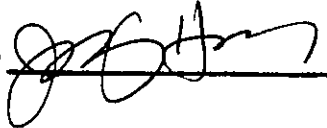
DATED: October 9, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: *[Signature]*
DOLORES RAMOS
Regional Manager

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
SEP 30 2003
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29711 LA
)	
ROSE BRIGGITTE PINKUS,)	L-2002110174
)	
Respondent.)	
)	

DECISION AFTER REJECTION

This matter was heard on January 21, 2003, by Administrative Law Judge ("ALJ") Richard J. Lopez at the Office of Administrative Hearings ("OAH"), Los Angeles, California.

Respondent ROSE BRIGGITTE PINKUS ("Respondent") appeared personally and was represented by Frank M. Buda, Attorney at Law.

The Complainant was represented by Mary E. Work, Counsel for the Department of Real Estate.

The record was held open until February 10, 2003, to receive certified copies of exhibits F, G, H and I from Respondent. Thereafter, on February 27, 2003, the ALJ

///

1 submitted a Proposed Decision dated February 21, 2003. I have
2 declined to adopt said Proposed Decision as my Decision.

3 Pursuant to Section 11517(c) of the Government Code of
4 the State of California ("Government Code"), Respondent was
5 served with notice of my determination not to adopt the Proposed
6 Decision of the ALJ along with a copy of said Proposed Decision.
7 Respondent was notified that the case would be decided by me upon
8 the record, the transcript of the proceedings conducted on
9 January 21, 2003, and upon any written argument submitted by
10 Respondent and Complainant.

11 On July 16, 2003, Respondent, through her attorney,
12 submitted Argument and Argument was submitted by legal counsel
13 for Complainant on August 18, 2003.

14 I have given careful consideration to the record in the
15 case, including the transcript of the proceedings that was held
16 on January 21, 2003 and the Arguments submitted by Complainant
17 and Respondent. Based on my consideration of the foregoing, the
18 following shall constitute the Decision of the Real Estate
19 Commissioner in this matter:

20 FACTUAL FINDINGS

21 1. Acting in her official capacity, the Complainant,
22 Deputy Real Estate Commissioner of the Department of Real Estate
23 of the State of California ("Department") Maria Suarez, filed
24 Accusation No. H-29711 LA on or about October 3, 2002.

25 2. ROSE BRIGGITTE PINKUS ("Respondent") is presently
26 licensed and/or has license rights under the Real Estate Law
27 (Part 1 of Division 4 of the Business and Professions Code).

1 3. At all times mentioned herein, Respondent was
2 licensed by the Department of Real Estate ("Department") of
3 the State of California as a real estate broker.

4 4. Conviction and Sentencing

5 On or about October 15, 2001, in the United States
6 District Court, Central District of California Respondent was
7 convicted of a violation of 18 USC 1010:2 ("False Statement to
8 the Department of Housing and Urban Development, Causing an Act
9 to be Done"), a felony involving moral turpitude.

10 As a result of Respondent's conviction she was placed
11 on probation for two (2) years; ordered to pay a special
12 assessment of \$100 and a total fine of \$5,000; required to
13 perform 200 hours of community service; required to notify the
14 Department of Real Estate of the conviction and required to abide
15 by any restrictions placed on her ability to submit loan
16 information for loans insured by the Department of Housing and
17 Urban Development ("HUD").

18 5. In addition, on March 12, 2002, HUD issued
19 Respondent a Notice of Proposed Debarment advising her that HUD
20 was proposing that she be debarred for three (3) years from
21 future participation in procurement and non-procurement
22 transactions as a participant, principal or contractor with HUD
23 and throughout the Executive Branch of the Federal Government.
24 Thereafter HUD and Respondent entered into a Settlement
25 Agreement. The terms of the agreement required Respondent to
26 make payment of \$4,000 to HUD and the parties mutually agreed
27 that Respondent be debarred from participation in procurement and

1 non-procurement transactions with HUD and throughout the
2 Executive Branch of the Federal Government for a period of two
3 (2) years. The two (2) year period commenced from the date of
4 Respondent's suspension, March 12, 2001.

5 6. Certain of the circumstance of Respondent's crime
6 are as follows:

7 At a time or times in May 1998, Respondent then
8 employed and licensed as a real estate salesperson, was a
9 participant in a scheme to defraud HUD and the FHA by creating
10 false and fraudulent income information including false and
11 fraudulent 1997 Form W-2 that indicated that the prospective
12 borrower was employed at Bellmat Catering Services earning
13 \$27,047.78, when in truth and in fact the borrower was not so
14 employed and did not earn that income. Residential property was,
15 therefore, obtained by the borrower and kin of the borrower.
16 After a time, the kin passed full title to other
17 kin and ultimately, the loan was paid in full.

18 These facts and circumstances demonstrate that the
19 crime of which Respondent was convicted bears a substantial
20 relationship to the qualification, functions and duties of a real
21 estate licensee.

22 7. Factors in Mitigation

23 There is no evidence that Respondent has other criminal
24 convictions. Respondent testified and produced evidence that she
25 is in compliance with the terms of her sentence and the period of
26 debarment from procurement and
27 non-procurement transactions with HUD and other areas of the

1 Executive Branch of the federal government, which ended in March
2 of 2003. Respondent's probation is scheduled to end
3 on October 4, 2003.

4 8. Factors in Aggravation

5 Respondent stands convicted of committing acts of fraud
6 against the government while acting as a real estate licensee and
7 remains on probation. Although Respondent represented in her
8 testimony at the administrative hearing, that she has learned her
9 lesson and will never work with false documents again, the
10 statements ring hollow. At the time Respondent committed the
11 crime for which she has been convicted, she had been a real
12 estate licensee for approximately fifteen (15) years. In fact,
13 according to Respondent's own testimony, by the time she
14 committed the criminal acts she was a well-seasoned real estate
15 professional having completed some 360 transactions during the
16 course of her career. She certainly knew she was not allowed to
17 submit documents to a lender that represented that the borrower
18 was employed at Bellmat Catering Services and was earning \$27,047
19 per year when neither piece of information was true. The only
20 real statements of remorse in this situation have been made by
21 Respondent's counsel and not Respondent herself.

22 Respondent offered numerous written references on her
23 behalf, including statements from her adult son and her father.
24 Interestingly, not one person, not even members of Respondent's
25 family, appeared on her behalf at the administrative hearing.
26 Respondent's father and two sons failed to appear, even though
27 according to Respondent, she financially supports them. Of course

1 the letters written by Respondent's son Omar Martinez and father
2 Eduardo Pinkus, encourage the Department to allow Respondent to
3 continue to maintain a license. The letters are self-serving.
4 Without Respondent's income from selling real estate, both
5 individuals would suffer financially. However, the fact that
6 Respondent has chosen to support these family members does not
7 mean that the seriousness of her crime can be overlooked. The
8 Department of Real Estate was never meant to be a social welfare
9 or employment agency. The Department was established primarily
10 to protect the consumers of the State of California from
11 dishonest and unscrupulous real estate licensees.

12 LEGAL CONCLUSIONS

13 1. Cause exists to deny Respondent's application for a
14 real estate salesperson license under Section 490 and 10177(b) of
15 the Code for conviction of a crime which is substantially related
16 to the qualifications, functions and duties of a real estate
17 licensee pursuant to Section 2910, Title 10, Chapter 6,
18 California Code of Regulations.

19 2. Cause to issue a restricted real estate license was
20 not established as is discussed further below.

21 Criteria of Rehabilitation

22 3. Criteria of Rehabilitation (Suspension or
23 Revocation) have been developed by the Department pursuant to
24 Section 482(b) of the Business and Professions Code for the
25 purpose of evaluating the rehabilitation of a licensee when the
26 licensee has been convicted of a crime. Said Criteria are set

27 ///

1 forth at Section 2912, Title 10, Chapter 6, California Code of
2 Regulations ("Regulations").

3 Applying the Criteria of Rehabilitation, subsections
4 "a" through "m" as set forth in section 2912 to the instant case
5 results in the following:

6 Regulation (a): The passage of not less than two years
7 since the most recent conviction that is "substantially related"
8 to the qualifications, functions or duties of a licensee of the
9 Department. A longer period is required if there is a history of
10 acts or conduct substantially related to the qualifications,
11 functions or duties of a licensee.

12 In this case, more than two years have passed since Respondent's
13 conviction.

14 Regulation (b): The Court did not order Respondent to
15 pay restitution. Respondent has testified that she repaid fines
16 assessed by the Court and HUD in her criminal matter. However,
17 the cost of bad loans is passed on to the consumer public by way
18 of higher interest rates and mortgage insurance costs. The
19 damage created by Respondent's actions cannot be fixed by her
20 mere payment of the above fines.

21 Regulation (c): Respondent has not had the conviction
22 expunged nor is she eligible to do so at this time.

23 Regulation (d): Registration pursuant to Penal Code
24 Section 290 does not apply in the instant case.

25 Regulation (e): Respondent has not completed probation
26 in the matter of her criminal conviction.

27 Regulation (f): Does not apply to this situation since

1 use of alcohol and substance abuse did not play a role in the
2 crime that Respondent committed.

3 Regulation (g): Respondent has testified that she
4 repaid fines assessed by the Court and HUD in her criminal
5 matter, however, as indicated in "b" above, the cost of bad loans
6 is passed on to others.

7 Regulation (h): Respondent offered no evidence of the
8 correction of her business practices other than to say she has
9 learned her lesson.

10 Regulation (i): Respondent provided no evidence that
11 she has changed her social circle or business relationships since
12 the time of her criminal conviction.

13 Regulation (j): Respondent has offered no evidence,
14 beyond hearsay evidence in the form of letters and a declaration,
15 that she has a stable family life and that she fulfills her
16 familial responsibilities. Respondent failed to comply with the
17 affidavit notice requirements set forth in Government Code
18 Section 11514 (California Administrative Procedures Act).
19 Whether Respondent meets this criterion of 2912(j) is
20 undetermined since no one other than the Respondent came forward
21 to testify under oath to the matters pertaining to Respondent's
22 family life.

23 Regulation (k): Respondent reports taking educational
24 courses that pertain to maintaining her license and some real
25 estate courses beyond that to keep abreast of changes in the area
26 of real estate. Respondent has engaged in the completion of, or

27 ///

1 sustained enrollment in, formal educational or vocational
2 training courses for economic self-improvement.

3 Regulation (l): Respondent reports that she has
4 performed community service above and beyond that required by the
5 court. This assertion is supported by written documentation.
6 Respondent has engaged in significant and conscientious
7 involvement in programs designed to provide social benefits or to
8 ameliorate social problems. While the initial involvement was
9 court mandated, Respondent's continued efforts are noted as a
10 positive step towards rehabilitation.

11 Regulation (m): As to whether Respondent has
12 demonstrated a change in attitude from that which existed at the
13 time of the criminal acts is uncertain. Respondent's testimony
14 at the administrative hearing was self-serving at best. At
15 hearing she said that she did do something wrong and that she
16 regrets doing it because it changed her whole life. Respondent
17 submitted a letter from her probation officer that offers nothing
18 other than the fact that Respondent is in good standing with her
19 Federal Supervision. The probation officer makes no comments
20 regarding Respondent's attitude. Without live testimony from
21 others familiar with Respondent's attitude at the time of the
22 criminal acts and her attitude since the conviction, there is
23 insufficient information to determine whether or not Respondent
24 has had a genuine change in attitude.

25 4. Respondent was a participant in a scheme to defraud
26 the government by the creation false and fraudulent income

27 ///

1 information for a prospective borrower in a transaction to
2 purchase real property.

3 As was argued by Department of Real Estate Counsel to
4 the ALJ during the administrative hearing, this is a situation
5 involving the ultimate crime of moral turpitude. As found by the
6 ALJ, Respondent's crime is recent and involves an ultimate
7 betrayal of the public trust - providing false information to the
8 United States of America. Respondent, acting in a licensed
9 capacity, was involved in providing false documents to the
10 government so that her clients would obtain a loan. For her
11 criminal acts, Respondent ensured that she would receive a
12 commission. She alone was responsible for facilitating the
13 criminal activity. She advised her clients to have false
14 documents prepared because they were unable to qualify for a loan
15 using true financial information. Respondent sent her clients to
16 see a particular individual that she knew would prepare false
17 documents. As someone licensed to represent clients in real
18 estate transactions, Respondent's actions were the worst sort of
19 betrayal of the public trust. The evidence is more than
20 sufficient to establish that Respondent should not hold a real
21 estate license at this time.

22 I disagree with the ALJ's recommendation that
23 Respondent's real estate broker license be revoked with the right
24 to make application for a restricted real estate broker license.
25 "The legislature intended to ensure that real estate brokers and
26 salespersons will be honest, truthful and worthy
27 of the fiduciary responsibilities which they will bear."

1 Harrington v. Department of Real Estate (1989) 214 Cal.App.3d,
2 402, Golde v. Fox (1979) 98 Cal.App.3d, 167. A real estate
3 broker license, whether restricted or otherwise, allows
4 Respondent to oversee and counsel real estate salespersons and as
5 such allows Respondent to remain a risk to the consumer public.

6 Issuing a restricted salesperson license to Respondent
7 is not the answer either, because the consumer public would
8 remain exposed to someone who, without showing strong indicia of
9 rehabilitation, has been fairly recently convicted of engaging in
10 a type of loan fraud. The fact remains, the Department's most
11 effective means of protecting the public is to revoke
12 Respondent's license.

13 In making the Order set forth below, I have noted that
14 HUD expressed its concern about respondent's honesty by debarring
15 her from procurement and non-procurement transactions with it for
16 a period of two years. Although that two-year period has now
17 expired, it has not been shown that the public welfare would be
18 adequately protected at this time by allowing respondent to
19 maintain the ability to perform licensed acts including
20 processing and brokering loans under a restricted license.
21 Little weight is given to the expiration of HUD's bar since it
22 coincided with the period while respondent was on probation, and
23 persons subject to such probation are required to act in
24 exemplary fashion. In re Gossage, 23 Cal 4th 1070.

25 ///
26 ///
27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ORDER

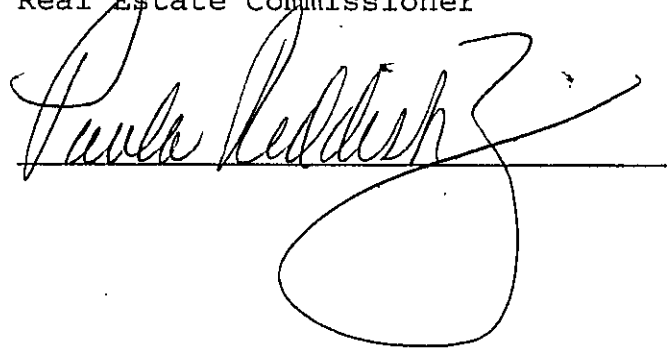
WHEREFORE, THE FOLLOWING ORDER is hereby made:

All real estate licenses and licensing rights of
Respondent ROSE BRIGGITTE PINKUS under the Real Estate Law are
REVOKED.

This Decision shall become effective at 12 o'clock noon
on October 20, 2003.

IT IS SO ORDERED September 25, 2003

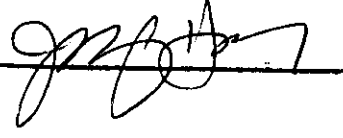
PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
MAR 28 2003

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29711 LA
ROSE BRIGGITTE PINKUS,)	
)	L-2002110174
Respondent.)	

NOTICE

TO: ROSE BRIGGITTE PINKUS, Respondent, and FRANK BUDA, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 21, 2003, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 21, 2003, 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 January 21,

///


1 2003, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of January 21, 2003, at the Los Angeles office
6 of the Department of Real Estate unless an extension of the time
7 is granted for good cause shown.

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

13 DATED: March 28, 2003

14
15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

17 
18 _____

19
20 BY: John R. Liberator
21 Chief Deputy Commissioner
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ROSE BRIGGITTE PINKUS,

Respondent.

Case No. H-29711 LA

OAH No. L2002110174

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on January 21, 2003.

Mary Work, Staff Counsel, represented the complainant.

Respondent appeared in person and was represented by Frank Buda, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

At the request of the parties the record was held open to February 10, 2003 to received certified copies of exhibits F, G, H and I. Same were timely received and the case was deemed submitted on said date of February 10, 2003.

The Administrative Law Judge now finds, concludes, and orders as follows:

1

FINDINGS OF FACT

- - -

PARTIES AND JURISDICTION

1

The complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.

Rose Brigitte Pinkus, respondent herein, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the *Business and Professions Code*).

At all times herein mentioned, respondent was licensed by the Department of Real Estate (DRE) of the State of California as a real estate broker.

These proceedings are brought under the provisions of *Business and Professions Code §10100 and Government Code §§11500 through 11528*. All pre-hearing requirements have been met. Jurisdiction for this proceeding does exist.

FINDINGS
RE
STATEMENT OF ISSUES

On October 15, 2001, in the United States District Court, Central District of California, respondent was convicted of *18 USC 1010;2, False Statement to the Department of Housing and Urban Development, Causing an Act to be Done*, a felony involving moral turpitude.

Certain of the circumstances of the crime are as follows:

At a time or times in May, 1998, respondent then employed and licensed as a real estate salesperson, was a participant in a scheme to defraud HUD and the FHA by creating false and fraudulent income information including a false and fraudulent 1997 Form W-2 that indicated that the prospective borrower was employed at Bellmat Catering Services earning \$27,047.78, when in truth and in fact, the borrower was not so employed and did not earn that income. Residential property was, therefore, obtained by the borrower and kin of the borrower. After a time certain of the kin passed full title to other kin and, ultimately, the loan was paid in full. These facts and circumstances demonstrate that the crime of which respondent was convicted bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

SUPPLEMENTAL
FINDING

7

The Department of Housing and Urban Development (HUD) issued a Notice of Proposed Debarment to respondent on March 12, 2002, advising respondent that HUD was proposing that she be debarred for three years from future participation in procurement and non-procurement transactions as a participant, principal or contractor with HUD and throughout the Executive Branch of the Federal Government. Respondent replied to the Notice of Proposed Debarment, submitted a legal brief, and requested a hearing. Thereafter, HUD and respondent entered into a Settlement Agreement. By the terms of the agreement respondent agreed to submit to HUD a total payment of \$4,000 and the parties mutually agreed that respondent be debarred from participation in procurement and non-procurement transactions with HUD and throughout the Executive Branch of the Federal Government for a period of two (2) years, commencing from the date of the respondent's suspension, March 12, 2001. Respondent has made payment of \$4,000. Respondent is in compliance with the agreement.

FINDINGS
RE
REHABILITATION

8

As a result of the conviction respondent was ordered to pay the United States a special assessment of \$100, and ordered to pay the United States a total fine of \$5,000. She has timely paid said assessment and fine. Additionally, respondent was placed on probation for two years under terms and conditions including the following:

- * Performing 200 hours of community service, as directed by the Probation Officer.
- * Notifying the California Department of Real Estate of the conviction as required by that agency's licensing requirements and abiding by any restrictions placed on her ability to submit loan information for loans insured by HUD as might be required by either agency.

Respondent has timely complied with both of said conditions and has timely complied with all other terms of probation. Respondent continues to be compliant and is in good standing with her criminal supervision and probation. She commenced probation on October 15, 2002 and is set to terminate on October 4, 2003.

9

3

The conduct leading to the conviction occurred approximately 5 years ago. Since that time respondent has achieved the following rehabilitation:

(A) As set forth in Finding 8 respondent has paid all fines and other assessments and is in compliance with probation. The criminal conduct did not lead to any monetary loss or losses and therefore no restitution was ordered.

(B) She completed 221 hours of community service – 21 hours beyond the required amount – with the San Gabriel Valley Service Center. She still does volunteer work, from time to time, with the satellite office of Los Angeles County Supervisor Gloria Molina. That office provides programs designed to provide social benefits or to ameliorate social problems.

(C) She is current in the continuing real estate education requirement and does, beyond that requirement, attend real estate work shops from time to time.

(D) She has a change in attitude from that which existed at the time of the commission of the criminal act. That change was demonstrated by the credible testimony of respondent corroborated by credible documentary opinion evidence by persons familiar with respondent including respondent's probation officer.

(E) She has maintained stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction. In particular, she provides financial support to her two adult sons and to her father. Both her sons and her father live with respondent in her residence. Respondent's financial support is allowing one of her sons to pursue educational goals and her financial support is allowing her father to meet the requirements of daily living in his declining years.

(F) She does attend *All Souls Catholic Church* on a regular basis.

10

Certain individuals familiar with respondent's work ethic and character did proffer opinions in the form of documentary evidence, in support of respondent. Although restricted to "administrative hearsay" the opinions were competent and credible and did demonstrate the respondent has been hard-working and industrious as a real estate agent and is, presently, of good character.

//
//
//
//
//
//

Respondent has been a licensee of DRE for a period of 19 years. She has been a real estate salesperson for approximately 16 years and a real estate broker since December, 1999. Prior to the time of the criminal conduct in May, 1998 she had successfully completed approximately 360 sales transactions. Subsequent to that time, to the present, she has successfully completed approximately 60 sales transactions. During the period of licensure she has suffered no discipline. Presently, respondent is employed as a Broker-Associate with *Re-Max Tri-City* in Glendale, California and there she is regarded as a good realtor in good standing with that office.

Respondent's crime is recent and involves an ultimate betrayal of the public trust, that is, in sum, providing false information to the United States of America. Although there was no direct monetary loss to an individual or entity there was the potential for monetary loss. Respondent is still on probation and is under sanction by HUD.

Weighed against those circumstances is a period of licensure of approximately two decades. During that period respondent has performed with competence and with concern for clients.

Respondent's conduct involved one loan transaction. There is no history or pattern of like conduct. Other than the one crime – of great gravity – there is no record of any other dishonest or deceptive act. Given the nature of the crime continued licensure of respondent in an unrestricted status is inappropriate. Given the long career of licensure without other incident and the rehabilitation to date licensure of respondent in a restricted status is appropriate.

CONCLUSIONS OF LAW

BPC §490 provides in pertinent part:

§490. Conviction of crime; relationship of crime to licensed activity

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which

the license was issued * * * A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of §1230.4 of the *Penal Code*.

- - -
2

§BPC §10177 provides in pertinent part:

§10177. Grounds

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

- - -
(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under §1203.4 of the *Penal Code* allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

3

Cause exists for discipline of respondent's real estate broker's license pursuant to *Business and Professions Code* §§490 and 10177(b) by reason of Findings 5 and 6.

4

Respondent sustained a recent felony conviction involving dishonest conduct and, accordingly, respondent is not now qualified for continued licensure in an unrestricted status. However, respondent did demonstrate sufficient rehabilitation by reason of Findings 8 through 11 to allow licensure on a restricted status with conditions.

6

ORDER

All licenses and licensing rights of respondent Rose Brigitte Pinkus under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to *Business and Professions Code §10156.5* if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of *Business and Professions Code §10156.7* and to the following limitations, conditions and restrictions imposed under authority of *Business and Professions Code §10156.6*.

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 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 attaching to the restricted license.

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

4. 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.

5. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by separate written order issued while the restricted license is in effect such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

//
//
//
//
//
//

Not adopted

Such reports may include, but shall not be limited to, periodic summaries of salient information concerning each real estate transaction in which the Respondent engaged during the period covered by the report.

Dated: February 21, 2003

A handwritten signature in black ink, appearing to read "Richard J. Lopez", is written over a horizontal line.

RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

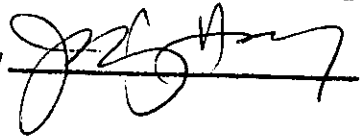
Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
ROSE BRIGGITTE PINKUS,)
_____)
Respondent.

Case No. H-29711 LA
OAH No. L-2002110174

FILED
DEC - 4 2002
DEPARTMENT OF REAL ESTATE

By 

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, JANUARY 21, 2003, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

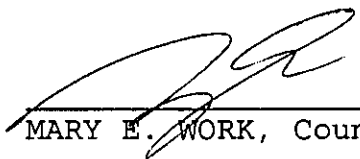
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: December 4, 2002

By 
MARY E. WORK, Counsel

cc: Rose Brigitte Pinkus
Frank M. Buda, Esq.
Sacto.
OAH

5/22/70
Play

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

FILED
OCT - 3 2006
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29711 LA
)	
ROSE BRIGGITTE PINKUS,)	<u>ACCUSATION</u>
)	
Respondent.)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against ROSE BRIGGITTE PINKUS alleges as follows:

I

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

II

ROSE BRIGGITTE PINKUS (hereinafter referred to as "Respondent") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter referred to as the "Code").

1 III

2 At all times herein mentioned, Respondent was licensed
3 by the Department of Real Estate of the State of California as a
4 real estate broker.

5 IV

6 On or about October 15, 2001, in the United States
7 District Court, Central District of California, Respondent was
8 convicted of 18 USC 1010;2, False Statement to the Department of
9 Housing and Urban Development, Causing an Act to be Done, a
10 felony involving moral turpitude.

11 V

12 The crime of which Respondent was convicted bears a
13 substantial relationship to the qualifications, functions or
14 duties of a real estate licensee.

15 VI

16 Respondent's criminal conviction is cause under
17 Sections 490 and 10177(b) of the Code for suspension or
18 revocation of all licenses and license rights of Respondent under
19 the Real Estate Law.

20 //

21 //

22 //

23 //

24 //

25 //

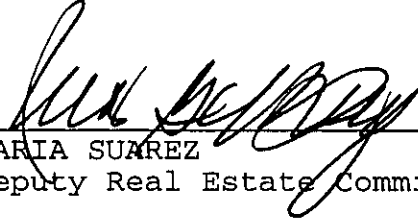
26 //

27 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

Dated at Los Angeles, California,
this 26th day of September, 2002.



MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Rose Brigitte Pinkus
Maria Suarez
Sacto.
JN