

**RECOVERY ACCOUNT —
APPLICATION FOR PAYMENT**

RE 807A (Rev. 7/04)

GENERAL INFORMATION

- Section 10471.1(a) of the Business and Professions Code requires that a copy of both sides of the Notice (RE 809) and a copy of this Application, be served on the judgment debtor.
- Notice to claimant regarding bankruptcy required by Section 10471(d) of the Business and Professions Code:** *You* must protect the underlying debt and judgment from discharge in bankruptcy. This means that the underlying debt and judgment must not have been discharged in a completed bankruptcy; or in the case of a pending bankruptcy or a bankruptcy filed while this application is pending, the claimant must demonstrate that the judgment and debt have been declared to be nondischargeable.
- To expedite handling, send the application by certified mail to: Department of Real Estate
Recovery Account Unit
P.O. Box 187007
Sacramento, CA 95818-7007
- Attach extra paper if more space is needed.

PART I — INFORMATION REQUIRED BY STATUTE

- Submission of all of the following information requested in this part is required by Section 10471(c) of the Business and Professions Code (attach extra paper if more space is needed). (*Privacy Notice printed on last page.*)
- Be sure to notify the Department of any change in address or telephone.

1. CLAIMANT'S NAME

| | | |
|--|-------|------------------|
| STREET ADDRESS | | TELEPHONE NUMBER |
| CITY | STATE | ZIP CODE |
| ATTORNEY'S NAME (COMPLETE ONLY IF REPRESENTED BY AN ATTORNEY IN THIS RECOVERY APPLICATION) | | |
| STREET ADDRESS | | TELEPHONE NUMBER |
| CITY | STATE | ZIP CODE |

2. List the name and address of judgment debtor(s). If the addresses of any of the judgment debtors is unknown, the names and addresses of persons who may know the judgment debtor(s) present whereabouts must be provided.

| <i>Name</i> | <i>Address</i> |
|-------------|----------------|
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| 3. Identification of the Judgment | A1. DATE OF CIVIL JUDGMENT OR DATE CRIMINAL RESTITUTION ORDER WAS ISSUED |
| | A2. COURT AND COURT FILE NUMBER |

B. Itemized amount of judgment or restitution to be paid under a criminal restitution order (list the basis and amount of each element of compensatory damages awarded):

- 1) Court-awarded costs: \$ _____
2) Interest awarded, if any : * \$ _____
3) Punitive damages, if any: \$ _____
4) Attorney’s fees, if any: \$ _____

* Explain below, from what date, at what rate, and on what amounts the interest was computed:

C. Attach to the Application a copy of the civil judgment or criminal restitution order bearing the court’s file stamp.

4. Amount of claim against the Recovery Account: \$ _____

Note: By statute and decisional case law, only a claimant’s “actual and direct loss,” plus interest at the legal rate from the date of loss, and court costs, are payable from the Recovery Account. Therefore the actual and direct loss may differ from the amounts awarded in the judgment. Actual and direct loss usually does not include such things as loss of anticipated profits and attorneys fees, and never includes punitive damages. The following questions must be answered in order that it may be determined whether the amounts sought to be paid from the Recovery Account are allowable.

A. Itemize and explain how the amount of the claim was computed:

5. Answer the following questions and provide the following information:

A. Is the claimant a spouse or domestic partner of the judgment debtor or a personal representative of the spouse? Yes No

B. Is there attached to the Application a description of all searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an itemized valuation of any assets discovered, and a description of the results of actions by the claimant to have the assets applied to satisfaction of the judgment? Yes No

C. Has the claimant diligently pursued collection efforts against other judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment? Yes No

D. Has the claimant assigned or transferred all or any part of his/her interest in the judgment or criminal restitution order? Yes No

E. Was the Application mailed or delivered to the Department no later than one year after the underlying civil judgment became final or criminal restitution order was issued? Yes No

F. Does the claimant have any knowledge or information that any judgment debtor has filed or intends to file for bankruptcy protection? Yes No

G. Is the underlying judgment one based upon a determination of nondischargeability in a bankruptcy proceeding filed by the judgment debtor? Yes No

a. If yes to Item G, proceed to Item #6.

b. If no to Item G, did the judgment debtor file a bankruptcy? Yes No

1) If no to Item Gb, proceed to Item #6.

2) If yes to Item Gb, please answer the following:

a) When did the judgment debtor file bankruptcy? _____

b) Did the claimant file a claim in the bankruptcy? Yes No

If no, please explain why not.

c) Was any attempt made to have the debt to the claimant determined to be nondischargeable? Yes No

If no, please explain why not.
If yes, what was the result?

d) Was the debt underlying the judgment, and/or the judgment, discharged in the bankruptcy proceeding? Yes No

If yes, when?

6. Attach to the Application a detailed narrative statement of facts, signed under penalty of perjury, explaining the allegations of the complaint upon which the civil judgment or criminal restitution order is based. This should be a coherent explanation of the claimant’s relationship with any licensee who is a judgment debtor, the nature of the transaction or transactions in which the claimant was involved with the licensee, and the nature of the involvement of any other person, particularly anyone else named as a plaintiff, defendant, cross-complainant, or cross-defendant. A *chronological* description is usually best.

7. Attach to the Application a statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying civil judgment is based was prosecuted conscientiously and in good faith. “Conscientiously and in good faith” means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural tactics contrary to the diligent prosecution of the complaint in order to provide access to the Recovery Account.

For an application based on a criminal restitution order, claimant must provide a statement, signed under penalty of perjury, that:

- The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.
- The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.
- The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Recovery Account.

8. While this application is pending, claimant expressly agrees to notify the Recovery Account Unit in writing of any information he or she becomes aware of that any judgment debtor has filed for bankruptcy protection.

9. While this application is pending, claimant expressly agrees to notify the Recovery Account Unit in writing of any assignment or transfer of all or any part of his or her interest in the judgment or criminal restitution order.

PART II — ADDITIONAL INFORMATION

As indicated in the instructions to this Application, there are two ways an Application can be made substantially complete:

- A. By submitting *all* information listed in the Recovery Account statutes and regulations. This approach would be accomplished if:
 - 1) Part I of this form is completed and served upon the Department; and
 - 2) *All* of the information required by Regulation 3102 is supplied with the Application.
- B. By submitting *all* information required by statute, but less than all the items listed in Regulation 3102. This approach would be accomplished if:
 - 1) Part I of this form is completed and served upon the Department; and
 - 2) Enough information is submitted for the Department to make a determination whether the application qualifies, though not necessarily all the items listed in Regulation 3102, and the Department is allowed to notify the claimant if what was submitted is sufficient.

Therefore, to follow the second approach, after completing Part I of the Application, please answer the following questions and provide the following information:

- 1. Attach proof of service of the Notice and Application on the judgment debtor. The Application will *not* be treated as substantially complete without this item. See the Instructions or Section 10471.1(b) of the Business and Professions Code for what constitutes proper service.
- 2. Attach a copy of the civil complaint, cross-complaint, or the amended version of those documents upon which the civil judgment is based, or in the case of an application based on a criminal restitution order, a copy of the criminal indictment or information, and a copy of any minute order, statement of decision, or other statement by the court explaining the basis for the judgment or criminal restitution order.
- 3. What acts did any judgment debtor who is a licensee perform for you that required a real estate license?

- 4. If the judgment debtor was licensed only as a salesperson at the time of the transaction, was the broker who employed the judgment debtor at the time sued? Yes No

If not, why not?

5. Was any person liable or potentially liable to the claimant in the transaction either not sued or dismissed from the lawsuit? Yes No

If so, explain why, and itemize any funds or other consideration received from that person or persons in settlement of the potential liability of that person or persons.

6. Did any other person or persons liable or potentially liable to the claimant in the transaction file bankruptcy? Yes No

- a. If no, proceed to Item #7.
 b. If yes, please answer the following.

1) What is the name of the person or persons? _____

2) When did the person file bankruptcy? _____

- 3) Did the claimant file a claim in the bankruptcy? Yes No

If no, please explain why not.

- 4) Was any attempt made to have the debt to the claimant determined to be nondischargeable? Yes No

If no, please explain why not.
 If yes, what was the result?

5) Was the debt underlying the judgment, and/or the judgment, discharged in the bankruptcy proceeding? Yes No

If yes, when?

7. Attach copies of abstracts of judgment bearing evidence of having been recorded in the county or counties in which the judgment debtor may possibly have assets.

Note: If the information supplied is insufficient for the Department to determine whether the Application qualifies for payment, you will receive an itemized list of any deficiencies.

PART III — VERIFICATION

Verification by Claimant

STATE OF CALIFORNIA, COUNTY OF _____

I am the Claimant in this Application; I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Verification by Attorney

I am the attorney for the Claimant in this Application. The Claimant is absent from the County where I have my offices, and I make this verification for and on behalf of the Claimant for that reason. I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Verification by Out-of-State Claimant

STATE OF CALIFORNIA _____ COUNTY OF _____

I am the Claimant in the Application; I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date

Signature

PART IV — SUMMARY

- A. At this point, the Application must, at a minimum, contain all the information required in Part I, which would include as attachments the first three items listed below.
1. A copy of the judgment or criminal restitution order bearing the court's file stamp.
 2. The detailed narrative statement of the facts referred to in Part I, Item 6.
 3. The description of searches and inquiries referred to in Part I, Item 5B.
- B. The Application should also contain as attachments all documents submitted in support of the Application, which may be all of the items listed in Regulation 3102, but in no event will the Application be treated as substantially complete until proof has been supplied that the judgment debtor was served with the Notice and Application.
- C. As to the Application and all documentation submitted with it, the appropriate Verification must be signed.

PRIVACY NOTICE: Section 1798.17 of the Civil Code requires this notice be provided when collecting personal or confidential information from individuals. *Each individual has the right to review personal information maintained by this Agency, unless access is exempted by law.*

Department of Real Estate
2201 Broadway
Sacramento, CA 95818

Recovery Account Counsel
Sacramento Legal Section
Telephone: (916) 227-0787

Business and Professions Code Section 10471(b) and (c) require each applicant to submit all of the information required in support of an application for payment for the Recovery Account.

All of the information required in the application is mandatory. If all or any part of the required information is not provided, processing of the application for payment may be delayed until the identity of the applicant and the details of the transaction upon which the application is based can be adequately verified.

The information requested in this application is used to verify the identity of the applicant and the details of the transaction upon which the application is based.

This information may be transferred to real estate licensing agencies in other states, law enforcement agencies (City Police, Sheriff's Departments, District Attorneys, Attorney General, F.B.I.) and any other regulatory agencies (i.e., Department of Corporations, Department of Insurance, Department of Consumer Affairs, California Bar Association).