

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
JUN 01 2004  
DEPARTMENT OF REAL ESTATE

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In the Matter of the Application of)  
ENRIQUE PAEZ, )  
Respondent. )

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NO. H-1635 FR  
OAH No. N2003110532

By Shelly Elzy

**DECISION**

The Proposed Decision dated May 12, 2004, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon  
on JUNE 21, 2004.

IT IS SO ORDERED May 26, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues of:

ENRIQUE PAEZ,

Respondent.

Case No. H-1635 FR

OAH No. N2003110532

**PROPOSED DECISION**

Administrative Law Judge Stephen J. Smith, Office of Administrative Hearings, State of California heard this matter in Sacramento, California on May 11, 2004.

Michael B. Rich, Counsel, represented the Department of Real Estate.

Enrique Paez appeared in pro per.

The matter was submitted on May 11, 2004.

**FACTUAL FINDINGS**

1. John W. Sweeney made the allegations contained in the Statement of Issues in his official capacity only as a Deputy Real Estate Commissioner, Department of Real Estate (hereafter "the Department"), State of California. The Statement of Issues was filed on October 16, 2003. Enrique Paez timely filed a Notice of Defense on Application in response to the Statement of Issues. The matter was set for an evidentiary hearing before an Administrative Law Judge. The matter was continued due to a problem providing Mr. Paez timely notice of the evidentiary hearing originally scheduled for January 12, 2004.

2. Enrique Paez filed an application for a real estate salesperson's license with the Department on January 13, 2003. Question 25 on the application asks the applicant whether he or she has ever been convicted of a violation of law, excepting minor traffic offenses, even if expunged. Mr. Paez truthfully answered Question 25 "Yes" and fully disclosed all details of his criminal convictions in the space provided at Question 27.

3. Mr. Paez acknowledged in his evidentiary hearing testimony that he has not completed the courses required by the provisions of Business and Professions Code section 10153.4.

4. Mr. Paez was convicted on September 3, 1998 in the Municipal Court, County of San Joaquin, Manteca-Ripon-Escalon-Tracy Division, of the crime of violation of Penal Code section 243(e), battery on a fiancée, a misdemeanor. Mr. Paez was sentenced to serve three years of formal probation, the terms and conditions of which included 15 days in jail, to be served on the alternate work program, completion of a one year anger management course and payment of fines. Mr. Paez failed to appear for his alternative work program sentence. He was sentenced to serve 30 days in jail.

5. The facts and circumstances leading to the cohabitant battery conviction occurred on August 21, 1998. Mr. Paez and his fiancée had just moved out to an apartment of their own, and an argument broke out. Mr. Paez was 19 at the time and the couple had a three month old baby. Mr. Paez had been drinking. The argument was loud and police were summoned by the downstairs neighbor. Police quelled the disturbance initially, but were required to return when the argument erupted again. Ms. Garcia, Mr. Paez's fiancée, reported to the police that Mr. Paez slapped her. Mr. Paez admitted to the responding officer that he "bitch-slapped" Ms. Garcia once with an open hand, causing her no injury. Ms. Garcia could not decide whether to have the officers arrest Mr. Paez. Officers decided to take Mr. Paez into custody. Ms. Garcia recanted her report to them that Mr. Paez slapped her and begged the officers to release Mr. Paez. Ms. Garcia refused to press charges against Mr. Paez.

6. Mr. Paez denied slapping Ms. Garcia or touching her during the dispute that led to his conviction in his evidentiary hearing testimony. Ms. Garcia insisted in her evidentiary hearing testimony that Mr. Paez did not slap her during the incident. Mr. Paez's conviction requires as one of its least adjudicated elements an unlawful touching of the other person. Mr. Paez is legally precluded in these proceedings from denying that he unlawfully touched Ms. Garcia during the argument, a touching both described to the police officers responding to the scene as a slap. The least adjudicated elements of the crime, including, in this instance, the physical contact by Mr. Paez on Ms. Garcia, are here conclusively presumed to be true and cannot be denied or attacked in these proceedings.<sup>1</sup> Further, Mr. Paez acknowledged that he should not have slapped Ms. Garcia to the Department's Deputy Commissioner interviewing him about his background on April 17, 2003 in the Department's Fresno District Office. Under these circumstances, the denials of both Mr. Paez and Ms. Garcia that Mr. Paez did not slap Ms. Garcia during the incident lack credibility.

7. Mr. Paez was convicted on September 28, 1999 in the Superior Court, County of San Joaquin, of the crime of violation of Vehicle Code section 23152(b), driving with a blood alcohol level of .08% by volume or greater, a misdemeanor. Mr. Paez was sentenced

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<sup>1</sup> *Arneson v. Fox* (1980) 28 Cal. 3d 440, 449, *Griffiths v. Medical Board of California* (2002) 96 Cal.App 4<sup>th</sup> 757, 763, n.2 (hrq. Den. June 12, 2002)

to serve three years of informal probation, the terms and conditions of which included serving 20 days in jail with credit for time served, with the jail time to be served on the work alternative program, the payment of fines, a driver's license suspension, and a court ordered first offender alcohol program. Mr. Paez was also ordered not to consume any alcohol at all while on probation, and not to drive with any measurable amount of alcohol in his system.

8. The facts and circumstances leading to the conviction occurred on July 10, 1999. Mr. Paez stopped to have drinks to celebrate his supervisor's birthday after working a graveyard shift that ended early. He drove toward his home at about 4 a.m. and was very sleepy. He drove up the connector ramp on northbound Interstate 5 at 11<sup>th</sup> Street in Tracy, California. He fell asleep at the wheel, and drove off the ramp, across 11<sup>th</sup> Street and rolled over, colliding with a fence post off the road. Mr. Paez was very lucky not to have seriously injured someone or himself. He was very intoxicated, and in the criminal proceedings against him, he was charged with an enhancement for having a blood alcohol level in excess of .20. The enhancement was dismissed as part of the plea agreement resulting in the conviction.

9. Mr. Paez was convicted on June 21, 2000 in the Superior Court, County of San Joaquin, Tracy Division, of the crime of violation of Vehicle Code section 23152(b), driving with a blood alcohol level in excess of .08% by volume, with one prior conviction for driving under the influence, a misdemeanor. Mr. Paez was sentenced to serve three years of informal probation, the terms and conditions of which included serving 10 days in jail, the payment of fines of \$1710.00, to complete the 18 month SB 38 drinking driver program, and a driver's license restriction for eighteen months.

10. The facts and circumstances leading to the conviction occurred on February 2, 2000. Mr. Paez was due to work the night shift and had been drinking at a family gathering during the day. He thought he was able to drive to work. He drove on Interstate 5 and was pulled over by a California Highway Patrol officer for weaving and following another vehicle too closely. He was found to be under the influence and had a blood alcohol breath test result of .12/.16/.13. Mr. Paez denied having anything to drink when the arresting officer questioned him.

11. Mr. Paez's two driving under the influence convictions each involve moral turpitude, in that each reflects a disregard of the duties a driver owes to other motorists and pedestrians to drive safely and responsibly without the impairment of alcohol. Mr. Paez suggested in his evidentiary hearing testimony that the driving under the influence convictions did not involve moral turpitude, in that the crimes were not serious compared to the crimes that were used as examples in the dictionary definition of moral turpitude he referenced. Mr. Paez did acknowledge that he did jeopardize the safety of other motorists as well as his own safety when he drove under the influence, and that there have been thousands on thousands of persons seriously injured or killed by drinking drivers. He expressed gratitude to God that no one was hurt due to his conduct in his evidentiary hearing testimony. But in closing, he returned to the contention that driving under the influence should not involve moral turpitude because it is so much less serious than crimes of violence or thefts.

Mr. Paez is very fortunate not to have been killed or injured, or to have killed or seriously injured someone or himself in both incidents. He was extremely intoxicated during his first offense, and well over the legal limit on the second. He drove or attempted to drive on the interstate on both occasions. The circumstances surrounding each offense demonstrate very poor judgment and a disregard for the safety of those sharing the road with him. Both offenses reflect moral turpitude and a disregard for the lives and safety of those on the road with him, as well as the welfare of those who depend on him.

12. The two driving under the influence convictions occurred within a period of two years. The cohabitant battery was also alcohol related and occurred just a year before the first DUI. The offenses are together substantially related to the qualifications, functions and duties of a real estate salesperson licensee. The convictions reveal a pattern of conduct demonstrating willful and repeated disregard of the law, and involve more than two convictions where alcohol consumption was involved and at least one involved driving.<sup>2</sup>

13. Mr. Paez presented evidence of the beginnings of rehabilitation. There was no evidence of mitigation or justification for the offenses. Mr. Paez has been off criminal probation for not quite a year. His performance on previous probations was poor. He violated several of the terms of his first DUI probation in his second offense, including court orders not to drink and not to drive with any measurable amount of alcohol in his system. He violated his first probation for the cohabitant battery offense by failing to appear for his alternate work program assignment. Mr. Paez expressed sincere remorse for his past mistakes, and some recognition of the poor judgment and harm his conduct has caused to others in his testimony, and that is praiseworthy. He realizes that he has obligations to his wife to be and his two small children that are seriously compromised if his irresponsible behavior of the past continues.

14. Mr. Paez obtained a good job with World Financial, a financial services brokerage firm in Lodi, California in December 2002. Mr. Paez has completed his training to sell life insurance and annuities, and intends to seek a Life Agent license from the Department of Insurance. He is training and studying for his securities licenses, and will take his Series 6 examination in August 2004. The firm originates loans of all types secured by real property. Mr. Paez seeks the real estate salesperson license so he can originate and broker mortgage loans, to be part of a full spectrum of financial services he hopes to be able to offer clients of the firm. Mr. Paez testified his broker, Pat Porter, who would continue to supervise him if licensed, is well aware of the convictions, as well as the turn around he has made in his life.

15. Mr. Paez lives with his fiancée and mother of his two small boys. They intend to marry. He provides financial and emotional support to both. He no longer associates with some of the persons he did in the past, when he received his convictions, with the notable exception of his fiancée, who was the victim of the domestic cohabitant battery conviction. Most all of Mr. Paez's time is spent at work studying for his exams or meeting the needs of

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<sup>2</sup> Title 10, California Code of Regulations ("CCR") sections 2910(a) (10), (11).

his family. He attends church regularly and gives to the needy when he has the means to do so. He is active in the affairs of his small community, Salida, and is very interested in community well being. He is hard working, energetic and flexible. He enjoys a stable home life and the couple owns a lovely home. His fiancée describes Mr. Paez as a caring, loving and committed husband and father. Mr. Paez has completed some college work in accounting, but has not completed a degree. He is not currently enrolled in school, as this time is taken with studying for his securities examinations.

16. Mr. Paez denied in his evidentiary hearing testimony that he has a problem with alcohol abuse. He testified that he stopped drinking, but did not mark a date when he did so. In the portion of the Confidential Interview Mr. Paez completed in his own handwriting, Mr. Paez denied a drinking problem and stated, "My record does show I have a drinking problem. I do not have a drinking problem even though my record indicates some sort of problem. I went to counseling by court to pay my dues and for my mistakes, never attended any kind of AA or nothing voluntarily on my behalf." He told the Department's Deputy Commissioner interviewing him in Fresno that he does not have a drinking problem and that he does drink socially at family gatherings from time to time. He now has his fiancée drive whenever he has had something to drink.

17. Mr. Paez is correct when he wrote that his record reveals that he has a problem with alcohol abuse. His three offenses all involved alcohol abuse induced misconduct, and the two most recent reveal seriously impaired judgment while under the influence. Mr. Paez has not acknowledged he has a problem with alcohol, and has not availed himself of any recovery or rehabilitation program. His evidentiary hearing testimony is that he got little out of the court ordered first offender drinking driver and SB 38 programs, as would be expected from one who denies he has a problem with alcohol. Mr. Paez's testimony is inconsistent regarding his current behavior toward drinking, at times asserting that he does not drink any longer, but not specifying when he stopped drinking, and acknowledging some social drinking at family gatherings. Mr. Paez's denial of a problem with alcohol is refuted by three convictions in the most recent seven years involving alcohol. Time will tell whether he is able to stay out of alcohol related trouble without admitting the problem and getting into a realistic recovery or rehabilitation program. In the absence of acknowledgement of the problem and evidence of some realistic effort to deal with the key underlying factor leading to his three criminal convictions, it is impossible to conclude Mr. Paez is rehabilitated.

## LEGAL CONCLUSIONS

1. "A board may deny a license regulated by this code on the grounds that the applicant has done one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or a 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 Section 1203.4 of the Penal Code.

“...”

“The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.”<sup>3</sup>

2. As set forth in the Factual Findings, Mr. Paez has been convicted of three criminal offenses between 1998 and 2000, all of which involve moral turpitude. Proof of a violation of section 480 does not require proof that the convictions involve moral turpitude, but do require proof the convictions are substantially related to Mr. Paez’s fitness for licensure. Mr. Paez’s conviction for battery on a cohabitant reflects the doing of an act with the intent or threat of doing substantial injury to the person or property of another.<sup>4</sup> It was also the first of a pattern of three instances of unlawful behavior in a relatively short period of time where alcohol was a significant contributing factor.<sup>5</sup> Under these circumstances, Mr. Paez’s domestic battery conviction is substantially related to the qualifications, functions and duties of a real estate salesperson and is thus evidence of unfitness for licensure.

3. The two DUI convictions together with the third alcohol related conviction reflects a pattern of repeated and willful disregard of the law. The courts of this State have clearly answered in the negative Mr. Paez’s contention that driving under the influence does not involve moral turpitude, and explained why. Multiple convictions for driving under the influence, or reckless driving with alcohol involved, have been held substantially related to the qualifications, functions and duties of a licensed professional in California.<sup>6</sup> Convictions involving alcohol consumption reflect a lack of sound professional and personal judgment. Alcohol consumption quickly affects normal driving ability, and driving under the influence of alcohol threatens personal safety and places the safety of the public in jeopardy. Driving while under the influence of alcohol also shows an inability or unwillingness to obey the legal prohibition against drinking and driving and constitutes a serious breach of a duty owed to society.<sup>7</sup> Similar to the facts here, the *Griffiths* court found relevant as a significant factor in aggravation that a later arrest for driving under the influence, while on probation for driving under the influence, violated his probation. Repeated convictions involving alcohol use, the later of which violated probation, reflect poorly on common sense and professional judgment, which are essential to the practice of a profession, and tend to undermine public confidence in and respect for the licensed profession.<sup>8</sup> The Department’s Regulation is in accord, and Mr. Paez’s two convictions for DUI and a third alcohol related conviction, all

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<sup>3</sup> Business and Professions Code section 480, in pertinent parts.

<sup>4</sup> 10 CCR section 2910(a)(8)

<sup>5</sup> 10CCR section 2910(a) (10) and (11).

<sup>6</sup> *Griffiths v. Medical Board of California* (2002) 96 Cal.App 4<sup>th</sup> 757, 770, (hrg. den. June 12, 2002)

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

within 7 years, one of which violated existing DUI probation, are defined by the Regulation as substantially related to the qualifications, functions and duties of a real estate licensee.<sup>9</sup>

4. Since the domestic violence conviction and the group of three driving under the influence convictions are substantially related to the functions, duties and qualifications of a real estate salesperson licensee, legal cause exists within the meaning of section 480 for the Department to refuse to issue Mr. Paez a real estate license.

5. "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, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock 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 Section 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..."<sup>10</sup>

6. As set forth above and in the Factual Findings, Mr. Paez has been convicted of three criminal offenses that involve moral turpitude and are substantially related to the qualifications, functions and duties of a real estate licensee. Therefore, separate legal cause exists within the meaning of section 10177(b) for the Department to deny the issuance of a real estate license to Mr. Paez.

7. The applicant for a real estate license has the burden of proving by a preponderance of the evidence that the applicant is rehabilitated and is a person of good character such that the license should issue, despite the existence of legal cause to deny issuance of the license. Proof of satisfactory rehabilitation is the means by which good character, honesty and fitness for licensure are proved.

8. The Department has enacted in Title 10, California Code of Regulations section 2911 a nonexhaustive list of criteria against which to weigh and evaluate an applicant's evidence of rehabilitation.

"The following criteria have been developed by the department pursuant to section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation

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<sup>9</sup> 10 CCR sections 2910(a)(10), (11)

<sup>10</sup> Business and Professions Code section 10177(b), in pertinent part.



of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

- (a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.
- (c) Expungement of criminal convictions resulting from immoral or antisocial acts.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.

(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

- (1) Testimony of applicant.
- (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.
- (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
- (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.
- (5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

9. Mr. Paez is to be praised and encouraged for the responsibility he has taken for his life and for his family. He presented some worthy evidence of a beginning rehabilitation, but failed to meet his burden of proof to demonstrate rehabilitation sufficient that the license should issue. Particularly impressive was Mr. Paez's good work record and progress toward obtaining his securities and insurance licenses. He has found a career goal and is making significant efforts to attain the education and experience to enhance his skills and career. Mr. Paez has successfully completed, with some detours, all three probations. He enjoys a stable family and home life and he takes understandable pride in providing for the needs of his family. But there was little evidence of any other factors of rehabilitation listed in the Department's criteria, and considerable evidence of aggravating factors. Particularly missing was evidence addressing subpart (f) above, regarding evidence of rehabilitation addressing the alcohol abuse problem that led to all three of his convictions. Additionally, Mr. Paez has only been free of probation for a little less than a year. Mr. Paez does not accept that he has an alcohol abuse problem, and therefore he has not done anything to seek a treatment, or a recovery or rehabilitation program, save what has been ordered by court. Mr. Paez is encouraged to apply again for the license, when he has more evidence of rehabilitation and has put more time between the completion of his probation and the application, and more time has passed during which he has led a crime free life.

10. The primary purpose of professional licensing schemes is the protection of the public, and the prevention of future harm to consumers.<sup>11</sup> "The Legislature intended to insure that real estate brokers and salespersons will be honest, truthful and worthy of the

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<sup>11</sup> *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App. 3d 1471, 1476, *In re Kelly* (1990) 52 Cal.3d 487, 496.

fiduciary responsibilities which they will bear.”<sup>12</sup> A significant period of credible sustained sobriety, with the time weighed in part against the length of time Mr. Paez abused alcohol, crime free living, successful completion and/or early termination of probation and a more direct approach to accepting that he has a problem with alcohol abuse and a reasonable approach to treatment of the problem is required to find rehabilitation. Mr. Paez may well make a fine candidate for licensure in the future, but he failed to prove that he is such at this time.

ORDER

The application of Enrique Paez to the Department of Real Estate for the issuance of a real estate salesperson license is DENIED, for the violations proved in the Legal Conclusions, and the action of the Department in refusing to issue the license is SUSTAINED.

DATED: May 12, 2004



STEPHEN J. SMITH  
Administrative Law Judge  
Office of Administrative Hearings

<sup>12</sup> *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402, *Ring v. Smith* (1970) 5 Cal.App.3d 197, 205

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
MAR 02 2004  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

ENRIQUE PAEZ,

By Shelly Ely

Case No: 1635 FR

OAH No. N2003110532

*Respondent*

**NOTICE OF HEARING ON APPLICATION**

**To the above named respondent:**

**You are hereby notified** that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITES 340/360, SACRAMENTO, CALIFORNIA 95814** on **TUESDAY--MAY 11, 2004**, at the hour of **1:00 PM**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.

*Dated:* MARCH 2, 2004

DEPARTMENT OF REAL ESTATE

By Michael B. Rich  
MICHAEL B. RICH, Counsel S. E.

file

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FILED  
OCT 16 2003

DEPARTMENT OF REAL ESTATE

By Jean P. Smith

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Application of )  
12 ENRIQUE PAEZ, ) No. H-1635 FR  
13 Respondent. ) STATEMENT OF ISSUES  
14 \_\_\_\_\_ )

15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against ENRIQUE PAEZ (hereinafter "Respondent"), is informed and  
18 alleges as follows:

19 I

20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about January 13, 2003, with the knowledge and  
23 understanding that any license issued as a result of said  
24 application would be subject to the conditions of Section 10153.4  
25 of the Business and Professions Code.

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II

Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about September 3, 1998, in the Superior Court for the State of California, County of San Joaquin, Respondent was convicted of violating Section 243(e) of the California Penal Code (Battery against former co-habitant), a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

On or about September 28, 1999, in the Superior Court for the State of California, County of San Joaquin, Respondent was convicted of violating Section 23152(b) of the California Vehicle Code (Driving under the influence while having a blood alcohol level of .08% or more), a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V


On or about June 21, 2000, in the Superior Court for the State of California, County of San Joaquin, Respondent was convicted of violating Section 23152(b) of the California Vehicle Code (Driving under the influence while having a blood alcohol level of .08% or more), a crime which bears a substantial

1 relationship under Section 2910, Title 10, California Code of  
2 Regulations, to the qualifications, functions, or duties of a  
3 real estate licensee.

4 VI

5 The crimes of which Respondent was convicted, as  
6 alleged in Paragraphs III, IV, and V, constitute cause for denial  
7 of Respondent's application for a real estate license under  
8 Sections 480(a) and/or 10177(b) of the California Business and  
9 Professions Code.

10 WHEREFORE, the Complainant prays that the above-  
11 entitled matter be set for hearing and, upon proof of the charges  
12 contained herein, that the Commissioner refuse to authorize the  
13 issuance of, and deny the issuance of, a real estate salesperson  
14 license to Respondent, and for such other and further relief as  
15 may be proper under other provisions of law.

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18   
19 JOHN W. SWEENEY  
Deputy Real Estate Commissioner

20 Dated at Fresno, California,  
21 this 8<sup>th</sup> day of October, 2003.