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**FILED**  
DEC 14 2001  
DEPARTMENT OF REAL ESTATE  
*by Laura B. Crow*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Application of)	No. H-29125 LA
ALEJANDRO ASCENCIO,	L-2001070652
Respondent.	

DECISION

The Proposed Decision dated November 9, 2001, 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 January 3, 2002.

IT IS SO ORDERED *December 12, 2001.*

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

*Paula Reddish Zinnemann*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues	)	CASE NO. H-29125 LA
Against:	)	
	)	OAH NO. L2001070652
ALEJANDRO ASCENCIO,	)	
	)	
Respondent.	)	
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PROPOSED DECISION

This matter was heard on October 30, 2001, at Los Angeles, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by James R. Peel, Counsel. The respondent was present and represented by Rose Pothier, Attorney at Law.

FACTUAL FINDINGS

1. On or about January 2, 2001, respondent submitted an application to the Department of Real Estate for a real estate salesperson license. The application has not been granted. Instead, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, made this Statement of Issues.
2. In response to Question 25 on said application, to wit; "Have you ever been convicted of any violation of law?" respondent marked the box denoting "No."
3. On or about June 25, 1993, in the Municipal Court of Santa Anita Judicial District, County of Los Angeles, State of California, respondent was convicted, upon a plea of guilty, of a misdemeanor violation of Penal Code section 148.9(A) (Falsely Represent Self to Officer), a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate salesperson. Imposition of sentence was suspended, and he was placed on three years summary probation. On August 9, 2001, the conviction was set aside under Penal Code section 1203.4.
4. According to respondent, the facts and circumstances resulting in the conviction were as follows: He was driving at night, realized his headlights were out, and stopped. A police officer approached and asked for his driver's license. He did not have a license because he had been in an uninsured accident. He gave the officer a false name, was arrested and spent two days in jail.

5. Respondent stated that he answered "No" to Question 25 on the application because he thought he had been convicted of a traffic violation, and Question 25 states, in pertinent part, "You may omit convictions for drunk driving, reckless driving, and minor traffic citations which do not constitute a misdemeanor or felony offense." The explanation is rejected as being illogical and implausible.

6. Respondent's credibility is damaged, and this matter aggravated, by the fact that in response to Question 18 on the same application, to wit: "Have you used any other names?" he answered "Alex Ascencio," which is not the name he gave the officer when he falsely identified himself.

### LEGAL CONCLUSIONS

1. The conviction set forth in Factual Finding 3 constitutes cause for denial of respondent's application under Business and Professions Code sections 480(a) and/or 10177(b).

2. Respondent's failure to disclose the conviction on his application constitutes the attempted procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in the application, which is a separate cause for denial of his application under Business and Professions Code sections 480 (c) and/or 10177(a).

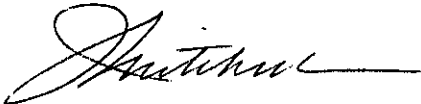
3. Respondent did not establish mitigation or rehabilitation sufficient to warrant the issuance of a license at this time.

4. The points raised in respondent's hearing brief have been full considered and found to be without merit.

### ORDER

Respondent's application for a real estate salesperson license is denied.

DATED: November 9, 2001



JERRY MITCHELL  
Administrative Law Judge

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of )  
ALEJANDRO ASCENSIO, )  
Respondent(s) )

Case No. H-29125 LA  
L-2001070652

By Janis B. Jones

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 Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on OCTOBER 30, 2001 at the hour of 1:30 p.m., 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 for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: August 21, 2001

DEPARTMENT OF REAL ESTATE

By: James R. Peel  
JAMES R. PEEL, Counsel

cc: Alejandro Ascensio  
Milestone Mortgage Corporation  
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AUG 2 2001  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of )  
ALEJANDRO ASCENSIO, )  
Respondent(s) )

Case No. H-29125 EA  
L-2001070652

James B. Orme

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 Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on AUGUST 29, 2001 at the hour of 1:30 p.m., 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 for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: August 2, 2001

DEPARTMENT OF REAL ESTATE

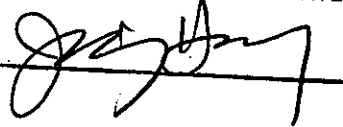
By: James R. Peel  
JAMES R. PEEL, Counsel

cc: Alejandro Ascensio  
Milestone Mortgage Corporation  
Sacto.  
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1 JAMES R. PEEL, Counsel (SBN 47055)  
2 Department of Real Estate  
3 320 West Fourth Street, Suite 350  
4 Los Angeles, CA 90013-1105  
5  
6 Telephone: (213) 576-6982  
7 -or- (213) 576-6913 (Direct)

**FILED**  
JUL 11 2001  
DEPARTMENT OF REAL ESTATE  
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Application of )	No. H-29125 LA
12 ALEJANDRO ASCENCIO, )	<u>STATEMENT OF ISSUES</u>
13 Respondent. )	
14 _____ )	

15 The Complainant, Thomas McCrady, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against ALEJANDRO ASCENCIO (Respondent) is informed and alleges  
18 in his official capacity as follows:

19 I

20 On or about January 2, 2001, Respondent applied to the  
21 Department of Real Estate of the State of California for a real  
22 estate salesperson license with the knowledge and understanding  
23 that any license issued as a result of that application would be  
24 subject to the conditions of Section 10153.4 of the Business and  
25 Professions Code.

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II

In response to Question 25 of the said license application, to wit: "Have you ever been convicted of any violation of law?", Respondent marked the box denoting "No".

III

In truth, on or about June 25, 1993, in the Municipal Court for the County of Los Angeles, State of California, Respondent was convicted of violating Penal Code Section 148.9(a) (Giving False Information to a Police Officer), a crime involving moral turpitude and substantially related to the duties and responsibilities of a real estate licensee.

IV

Respondent's failure to reveal the criminal matter set forth in Paragraph III, above, in said application, constitutes the attempted procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which is cause to deny Respondent's application for a real estate salesperson license under Sections 480(c) and 10177(a) of the Code.

V

The crime of which Respondent was convicted, as described in Paragraph III, constitutes cause for denial of his application for a real estate license under Section 480(a) and 10177(b) of the California Business and Professions Code.

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