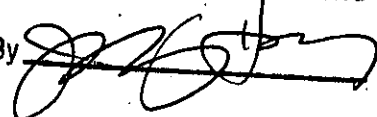


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**FILED**  
AUG 02 2004  
DEPARTMENT OF REAL ESTATE  
By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of)	)	NO. H-30008 LA
	)	
CARLOS NAVA,	)	
	)	
Respondent	)	
	)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

On November 7, 2003, a restricted real estate salesperson license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Decision of September 9, 2003, in case No. H-30008 LA, effective September 30, 2003. This Order granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section

1 10156.6 of said Code. Among those terms, conditions and  
2 restrictions, Respondent was required to take and pass the  
3 Professional Responsibility Examination administered by the  
4 Department within six (6) months from November 7, 2003. The  
5 Commissioner has determined that as of May 24, 2004,  
6 Respondent has failed to satisfy this condition, and as such,  
7 is in violation of Section 10177(k) of the Business and  
8 Professions Code. Respondent has no right to renew the  
9 restricted license if this condition is not satisfied by the  
10 date of its expiration (Section 10156.7 of the Business and  
11 Professions Code.)

12 NOW, THEREFORE, IT IS ORDERED under authority of  
13 Section 10156.7 of the Business and Professions Code of the  
14 State of California that the restricted real estate  
15 salesperson license heretofore issued to respondent and the  
16 exercise of any privileges thereunder is hereby suspended  
17 until such time as Respondent provide proof satisfactory to  
18 the Department of having passed the Professional  
19 Responsibility Examination, referred to above, or pending  
20 final determination made after hearing (see "Hearing Rights"  
21 set forth below).

22 IT IS FURTHER ORDERED that all license certificates  
23 and identification cards issued by Department which are in the  
24 possession of respondent be immediately surrendered by  
25 personal delivery or by mailing in the enclosed, self-  
26 addressed envelope to:

27 //

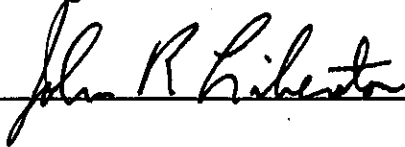
1 Department of Real Estate  
2 Attn: Flag Section  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

4 HEARING RIGHTS: Pursuant to the provisions of  
5 Section 10156.7 of the Business and Professions Code, you have  
6 the right to a hearing to contest the Commissioner's  
7 determination that you are in violation of Section 10177(k).  
8 If you desire a hearing, you must submit a written request.  
9 The request may be in any form, as long as it is in writing  
10 and indicates that you want a hearing. Unless a written  
11 request for a hearing, signed by or on behalf of you, is  
12 delivered or mailed to the Department at 320 West Fourth  
13 Street, Suite 350, Los Angeles, California, within 20 days  
14 after the date that this Order was mailed to or served on you,  
15 the Department will not be obligated or required to provide  
16 you with a hearing.

17 This Order shall be effective immediately.

18 DATED: July 28, 2004

19 JOHN R. LIBERATOR  
20 Acting Real Estate Commissioner

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*Handwritten initials*

**FILED**  
SEP 10 2003  
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By *R. Reddish*

\* \* \* \* \*

In the Matter of the Application of )  
 )  
CARLOS NAVA, )  
 )  
Respondent. )

No. H-30008 LA  
L-2003040098

DECISION

The Proposed Decision dated August 4, 2003, 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, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on SEP 30 2003.

IT IS SO ORDERED September 9, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

*Paula Reddish*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

CARLOS NAVA,

Respondent.

Case No. H-30008 LA

OAH No. L2003040098

PROPOSED DECISION

This matter came on regularly for hearing before Milford A. Maron, Administrative Law Judge with the Office of Administrative Hearings, on July 21, 2003, at Los Angeles, California. Complainant was represented by Elliott MacLennan, Staff Counsel. Respondent, Carlos Nava, appeared in person and was represented by John A. Goalwin, Esq. Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds as follows:

1

Maria Suarez, Complainant, is a Deputy Real Estate Commissioner of the State of California and made the Statement of Issues in her official capacity.

2

Respondent, Carlos Nava, made application to the Department of Real Estate for a real estate salesperson's license on or about July 1, 2002. The application was denied, which is the subject of the hearing.

3

In response to Question 25 of said license application, to wit: "Have you ever been convicted of any violation of law?" Convictions expunged under Penal Code Section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense." Respondent checked the box denoting "Yes", and disclosed a conviction in 1993, but failed to disclose a 1996 conviction.

4

A. On January 12, 1993, in the Municipal Court of Whittier, in and for the County of Los Angeles, State of California, respondent was convicted of violating Penal Code Sections 23152(a)(a felony), 20002(a)(a misdemeanor), and 14601.2(a)(a misdemeanor). The

conviction involved drunk driving with a suspended license. This conviction was disclosed in his application. Said crime involves moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee.

B. On May 8, 1996, in the Municipal Court of Los Angeles, Central Arraignment Judicial District, in and for the County of Los Angeles, State of California, respondent was convicted of violating Penal Code Section 166(a)(4). The conviction involved contempt for failure to pay child support, a misdemeanor. His failure to disclose this conviction was due to the casual manner in which it was handled in court, so that he did not believe he was convicted of a crime.

5

Respondent testified in his own behalf and established the following facts:

1. He has been sober since February 22, 1997, as a result of his studiously attending Alcoholic Anonymous meetings. He now has a stable family life. He makes no excuse for his past drinking difficulties, and has put that behind him.

2. He is presently current in his support payments and is paying back arrearages. He pays monthly approximately \$1100.

3. He is currently employed by a realty company doing non-licensed activities, but is desirous of increasing his income by selling residences at the same company.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1

Respondent's failure to reveal his 1996 conviction in his application does not constitute an attempt to procure a real estate license by fraud, misrepresentation or deceit in that he had no intent to deceive the agency by this inadvertent act.

2

Cause for denial exists pursuant to Sections 475(a), 480(c) and 10177(a) of the Business and Professions Code by virtue of the 1993 conviction.

2

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of Carlos Nava for a real estate license is denied; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code, if respondent makes application therefore 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 Sections 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted real estate 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 five (5) years has elapsed from the effective date of this Decision.

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

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

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

5. Respondent shall, within six months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent passes the examination.

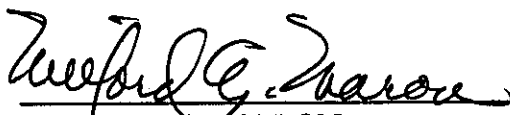
6. Respondent shall within eighteen (18) months of the issuance of respondent's original real estate salesperson's license, under the provisions of Section 10153.4 of the Business and Professions Code, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after the issuance of respondent's original real estate salesperson's license. Said suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the respondent of lifting of the suspension.

7. During the term of any restricted license, respondent shall submit to the Department of Real Estate as of the last day of each March, June, September and December, proof satisfactory to the Real Estate Commissioner of respondent's ongoing participation in a recognized drug and alcohol diversion program. Said proof shall be submitted to the Manager of the Crises Response Team at the Los Angeles Office of the Department of Real Estate and shall be verified as true and accurate by respondent under penalty of perjury.

\* \* \* \* \*

The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500 et seq., of the Government Code, if such proof is not timely submitted as provided for herein, or as provided for in a subsequent agreement between the respondent and the Commissioner. The suspension shall remain in effect until such proof is submitted or until respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

Dated: Aug 4, 2003

  
MILFORD A. MARON  
Administrative Law Judge  
Office of Administrative Hearings

MAM:rfm



*Sacto  
3/2/03*

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

**FILED**  
JUL 9 2003  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

CARLOS NAVA,

By *K Wederholt*

Case No. H-30008 :LA

OAH No. L-2003040098

\_\_\_\_\_  
*Respondent*

**CONTINUED  
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 **320 W. Fourth Street, Ste. 630, Los Angeles, California** on **July 21, 2003**, 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 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: July 9, 2003

By *EL*  
**ELLIOTT MAC LENNAN, Counsel**

cc: Carlos Nava  
Richard Cecil Thornton  
John A. Goalwin, Esq./Sacto/OAH/MB

*Sacto  
plug*

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

**FILED**  
APR 17 2003  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

By *K. Niederhilt*

CARLOS NAVA,

Case No. H-30008 LA

OAH No. L-2003040098

*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 320 W. Fourth Street, Ste. 630, Los Angeles, California on June 25, 2003, at the hour of 10:00 a.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 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: APR 17 2003

By *E. J. L.*  
ELLIOTT MAC LENNAN, Counsel

cc: Carlos Nava  
Richard Cecil Thornton  
Sacto/OAH/MB

*press  
glue*

ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**  
MAR 18 2003  
DEPARTMENT OF REAL ESTATE

By *R. M. ...*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of	)	No. H-30008 LA
CARLOS NAVA,	)	<u>STATEMENT OF ISSUES</u>
Respondent.	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against CARLOS NAVA (respondent) is informed and alleges in her official capacity as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about July 1, 2002, subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code) with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section 10153.4 California Business and Professions Code) (Code).

2.

1  
2 In response to Question 25 of said license application,  
3 to wit: "Have you ever been convicted of any violation of law?  
4 Convictions expunged under Penal Code Section 1203.4 must be  
5 disclosed. However, you may omit minor traffic citations which  
6 do not constitute a misdemeanor or felony offense." Respondent  
7 checked the box denoting "Yes" and disclosed the conviction set  
8 forth in Paragraph 3 below. However, respondent failed to  
9 disclose the conviction set forth in Paragraph 4 below.

10 3.

11 On January 12, 1993, in the Municipal Court of  
12 Whittier, County of Los Angeles, State of California, respondent  
13 was convicted upon a guilty plea to one count each of violating  
14 Vehicle Code Sections 23152(a) (D.U.I.), 20002(a) (hit and run),  
15 and, 14601.2(a) (driving privilege suspended for prior D.U.I.),  
16 misdemeanor crimes.  
17

18 4.

19 On May 8, 1996, in the Municipal Court of Los Angeles,  
20 Central Arraignment Judicial District, County of Los Angeles,  
21 State of California, respondent was convicted on a plea of nolo  
22 contendere to one count of violating California Penal Code  
23 Section 166.4 of the (contempt - failure to pay child support -  
24 provide for children), a misdemeanor.

25 ///

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5.

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2           These crimes by their facts and circumstances involve  
3 moral turpitude and are substantially related under Section 2910,  
4 Chapter 6, Title 10 of the California Code of Regulations, to the  
5 qualifications, functions or duties of a real estate licensee and  
6 are cause to deny Respondent's application for a real estate  
7 license pursuant to Code Sections 480(a) and 10177(b).

8  
9           6.

10           Respondent's failure to reveal the conviction set forth  
11 in Paragraph 4 in his application for licensure, constitutes an  
12 attempt to procure a real estate license by fraud,  
13 misrepresentation or deceit or by making a material misstatement  
14 of fact on his application, which is cause for denial of  
15 respondent's application for a real estate salesperson's license  
16 under Code Sections 475(a), 480(c) and 10177(a).

17  
18           7.

19           In addition to the D.U.I. conviction set forth in  
20 paragraph 3, Respondent disclosed on his Confidential - Report of  
21 Interview three additional D.U.I. convictions incurred between  
22 1988 and 1994, and Respondent disclosed "various" Vehicle Code  
23 Section 14601 driving on a suspended license between 1980 and  
24 1994.

25           These proceedings are brought under the provisions of  
26 Section 10100, Division 4 of the Business and Professions Code of  
27 the State of California and Sections 11500 through 11528 of the

1 Government Code of the State of California.

2 WHEREFORE, Complainant prays that the above-entitled  
3 matter be set for hearing and, that upon proof of the charges  
4 contained herein, that the Commissioner refuse to authorize the  
5 issuance of, and deny the issuance of, a real estate salesperson  
6 license to Respondent CARLOS NAVA and for such other and further  
7 relief as may be proper under other applicable provisions of law.

8 Dated at Los Angeles, California

9 this *14th* day of *March* 2003.

10   
11 Deputy Real Estate Commissioner

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24  
25 cc: Carlos Nava  
26 Richard Cecil Thornton  
27 Sacto  
MLB