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JUN - 9 2011
DEPARTMENT OF REAL ESTATE
By: [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	No. H-30517 LA
)	
ARTHUR ALDERETE,)	
)	
Respondent.)	
)	

ORDER GRANTING UNRESTRICTED LICENSE

On April 12, 2004, a Decision was rendered herein denying the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on June 5, 2004, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On or about September 10, 2009, Respondent petitioned for removal of restrictions of said real estate salesperson license.

I have considered Respondent's petition and the evidence and arguments submitted in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate

1 salesperson license and that it would not be against the public interest to issue said license to
2 Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal
4 of restrictions is granted and that a real estate salesperson license be issued to Respondent, if
5 Respondent satisfies the following conditions:


6 1. Submits a completed application and pays the fee for a real estate salesperson
7 license within the 12 month period following the date of this Order; and

8 2. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed application,
11 or (ii) within the 12 month period following the date of this Order.

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13 This Order shall be effective immediately.

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15 Dated: 4-26-2011

16 JEFF DAVI
17 Real Estate Commissioner

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FILED
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DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By [Signature]

* * * * *

In the Matter of the Application of) No. H-30517 LA
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ARTHUR ALDERETE,) L-2004010040
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Respondent.)
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DECISION

The Proposed Decision dated March 11, 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, 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 May 4, 2004.

IT IS SO ORDERED April 12, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

[Signature]

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

**In the Matter of the Application of
ARTHUR ALDERETE,
Respondent.**

**Case No. H-30517 LA
OAH No. L2004010040**

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California on March 3, 2004.

Complainant, Maria Suarez, was represented by James R. Peel, Staff Counsel.

Respondent, Arthur Alderete ("Respondent"), was present and was represented by Ronald Talmo, Attorney at Law.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Statement of Issues was made by Maria Suarez, Complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in her official capacity.

2. On or about March 7, 2003, Respondent submitted an application to the Department of Real Estate ("the Department"). The application was denied and this matter ensued.

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3. The Department's basis for denying Respondent's application was his conviction of crimes in 1997 and 1998. Those convictions had been the basis of denial of Respondent's earlier application as well. In a Decision dated January 29, 2001 and effective February 22, 2001, the Department adopted the Proposed Decision of Administrative Law Judge Deborah Myers-Young in Case No H-28775 LA (OAH No. L2001100193) which denied Respondent's April 24, 2000 application. The factual findings made by Judge Myers-Young are res judicata in this case and are repeated verbatim below. The italicized portions of the text indicate items and/or events which were occurring at the time of Judge Myers-Young's December 14, 2000 Proposed Decision. Those items and/or events have reached their respective completions or terminations and are no longer applicable as factual findings. However, they are included (as set off by italics) for the purpose of completing the quoted material.

"2. Respondent submitted his application for real estate salesperson's License (sic) on April 24, 2000. In response to interrogatory numbers 25 and 27, Respondent indicated that he had two criminal convictions: a felony and a misdemeanor in 1997, and four misdemeanors in 1998. Respondent also attached a letter to the Department explaining the circumstances of the convictions and documentation of his course of rehabilitation. The application was denied and this matter ensued.

"3. On July 2, 1997, in the Superior Court of California, County of Orange, Case no. C 96SF118, Respondent was convicted on his plea of guilty of one count of violating Penal Code section 236 (False Imprisonment by Violence), a felony, and 243(e) (Battery, Non-Cohabitant), crimes involving moral turpitude and substantially related to the qualifications, functions and duties of a real estate licensee under Title 10, California Code of Regulations, Section 2910.

"4. Respondent was ordered to serve 270 [days] in County Jail, stayed until July 7, 1997. He was further ordered to pay a restitution fine in the sum of \$ 200.00 and to pay full restitution in a sum not disclosed by the evidence. He was sentenced to supervised probation for a period of three years, and ordered to cooperate with his probation officer in a plan for psychological treatment. He was further ordered to not contact the victim. Respondent continues to owe restitution in the sum of \$ 1800.00.

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"5. The facts and circumstances underlying the 1997 conviction are that on November 24, 1996, Respondent became angry with a woman he had been dating when she broke up with him. He refused to drive her to her house in San Clemente, and made her get out of his car in Laguna Beach. He returned to pick her up, promising to drive her home. He passed her exit on the freeway, and ignored her screams to pull the car over. He then drove the car to a desolate area near Camp Pendleton, and then demanded that she orally copulate him. When she refused, he grabbed her head. She bit him, and he began to choke her. When she struggled, he grabbed at her chest and ripped at her blouse. The victim saw the headlights of another vehicle approach, and stuck her legs out the car door. When she finally escaped, the Respondent grabbed her purse, drove away, and threw her purse on her front lawn. Respondent told the police he was slightly intoxicated, and felt out of control when the victim broke up with him. He admitted to the police that he told the victim to orally copulate him, and admitted to keeping her purse as a means of control over her.

"6. On September 22, 1998, in the Superior Court of California, County of Orange, South Justice Center, Case No. 98SM49424, Respondent was convicted on his plea of guilty of one count of violating Penal Code section 240 (Assault), and one count of violating Penal Code section 243 (e)(1) (Battery on a Spouse or Cohabitant) crimes involving moral turpitude and substantially related to the qualifications, functions and duties of a real estate licensee under Title 10, California Code of Regulations, Section 2910.

"7. Respondent was placed on conditional probation for a period of three years. He was ordered to pay a restitution fine in the sum of \$ 100.00. He was further ordered to pay \$ 200.00 to the Domestic Violence Fund, and \$ 500.00 to a Battered Woman' Shelter. He was ordered to continue with counseling, and to enroll in and complete a Batterer's Program. He was further ordered to complete 8 hours of community service. Respondent fulfilled these conditions by June 9, 2000. *He will remain on probation through September 22, 2001.*

"8. The facts and circumstances underlying the conviction are that on July 28, 1998, Respondent began arguing with his girl friend because he wanted to have sex with her. She refused. She went into the bathroom, where he followed her and began urinating on the floor. She began to hit him. She bit him, and he bit her. She began to call the police, and Respondent pulled the telephone out of the wall.

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"9. Respondent continues to be on formal probation until September 22, 2001, and owes a balance of \$ 1800.00 in fines. When Respondent initially wrote a letter to the Department of Real Estate regarding his 1997 and 1998 convictions, he minimized his actions by stating that the convictions were the result of an unhealthy relationship. He described the 1998 conviction as a violation of probation, rather than the two counts involving a different woman.

"10. In mitigation, Respondent takes full responsibility for his crime, and is greatly remorseful. He was open, forthright, and detailed when he testified at the administrative hearing about his involvement in the crimes he committed in 1997 and 1998. He believes that counseling has changed his life and has built his self-esteem. He believes he has learned how to control his anger with women. Respondent has completed a 52-week Batterer's Treatment Program on November 8, 1999 through South Coast Counseling Center, and was given a favorable prognosis. He participated in individual therapy sessions with Ann Stanton, MFCC, 'almost weekly' between January 1998 and August 1998, 'regularly' for six months in 1999, and once a month in 2000. He completed a 10-week Anger Management Program offered by her in 1998. Ms. Stanton believes Respondent to be working to change his behaviors and attitudes.

"11. Respondent has impressed his former employer of almost two years, Jenine Baillie, a Senior Real Estate Manager at CB Richard Ellis. She spoke highly of Respondent's 'excellent performance' in the commercial leasing industry. She believed him to be respectful toward women. While Respondent told her he had a criminal conviction involving a girlfriend, he did not inform her that he had two separate convictions involving sexually related violence upon two different women. Nonetheless, she believed he would be a great real estate salesperson.

"12. Respondent's current employer, C. Brent Jorgensen, who manages the San Clemente office of Torbell Real Estate, would like to hire him based upon his experience with commercial real estate. He believed Respondent was respectful toward women and believed he would be a successful agent. Although Mr. Jorgensen knew Respondent had committed a battery on a woman, he did not know that Respondent had tried to force or encourage two different women to have sex with him. Nor did he know that Respondent had served jail time."

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4. Since the denial of his real estate salesperson application in 2001, Respondent has continued his rehabilitation, utilizing the skills and strategies he learned through therapy, the anger management course and the batterer's program. He has continued to work in the real estate industry in positions that do not require licensure. Those positions have required him to interact with women and to deal with stressful situations. He has done so in a socially appropriate manner and without tendency toward the anger and violence that marked his earlier conduct.

5. Approximately three years ago, Respondent resided with a female friend for approximately six months. Despite numerous disagreements between them during that period, Respondent did not act violently or in any other inappropriate manner toward her. The individual with whom he resided testified on Respondent's behalf at the hearing. She has a son whom she would not want to expose to the risk of violence, yet she trusted Respondent enough to allow him to reside with her. She considers Respondent her "best friend."

6. Respondent is 32-years-old. The consensus among the several individuals who testified on his behalf is that he has matured since 1998 and now acts far more appropriately. That belief is borne out by Respondent himself who has worked toward that metamorphosis and who recognizes the great changes he has made in his conduct. He feels obligated both to himself and to his immediate and extended family members, many of whom were present to support him at the hearing. In addition to those feelings of obligation, he wants to be a good "big brother" to his younger brother and a positive influence on his 14-year-old nephew.

7. Respondent holds a Bachelor of Arts degree in English with a minor in Spanish from the University of California at Irvine. He has completed the courses required for licensure as a real estate salesperson. He presently makes his living as a Transaction Coordinator for Dennis Cain, a Mortgage Lender at RBC Mortgage and Manager of J.A. Miller Associates. Respondent also serves as a manager of properties owned by his parents. His employment positions involve daily interaction with tenants, vendors and others, often in difficult and stressful situations. Respondent admits he formerly tried to control people with force. He now realizes he must know and work on himself rather than try to control others, and that he gets "more with sugar than with vinegar" (his expression). In that regard, he now respectfully requests what he desires and is prepared to be turned down. He is comfortable with himself and with others in his new attitude. He has not been accused of inappropriate behavior since the incident that gave rise to the 1998 conviction. Respondent enjoys customer service and aspires to eventually hold a real estate broker's license.

8. Respondent is an active parishioner in St. Edwards Catholic Church in Dana Point. He performs volunteer work once per month with the American Red Cross.

9. In his commitment to remaining on the right track and his feelings of obligation to himself and to his family and friends who supported him at the hearing, Respondent acknowledges that he "has done some terrible things" but is "trying to get on an even keel with society" (his terms). He is sincerely remorseful for the conduct that resulted in his criminal convictions in 1997 and 1998.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

Cause exists for the denial of Respondent's application pursuant to Business and Professions Code sections 480(a) and 10177(b), for conviction of a crime, as set forth in Finding 3 (subparagraphs 2-12).

Respondent has substantially changed his attitude and conduct since 1998 and has made impressive strides toward complete rehabilitation. He continued to work diligently toward that rehabilitation even after his first application for licensure was denied more than three years ago. In that regard, he has satisfied the majority of the Department's applicable criteria for rehabilitation as set forth in Title 10, California Code of Regulations, section 2911. Specifically, more than two years have passed since his most recent conviction [Criterion (a)]¹. He has paid his restitution and fines [Criteria (b) and (g)]. He successfully completed his probation [Criterion (e)]. He enjoys very strong familial ties [Criterion (h)]. He has completed formal education for economic self-improvement by earning a bachelor's degree from a four-year university and completing the educational requirements for licensure [Criterion (i)]. He is conscientiously involved in his church and community activities [Criterion (l)]. He is no longer involved with the women who were the victims of his criminal activity [Criterion (m)]. Perhaps most importantly, he has substantially changed his attitude from that which existed at the time of his criminal conduct [Criterion (n)].

In light of Respondent's strong rehabilitation, the public interest should be adequately protected by the issuance of a properly conditioned restricted license.

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¹ In fact, approximately 5½ years have passed, almost three times the minimum requisite period, since his most recent conviction. Therefore, even if one were to construe the two similar convictions as "a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department," referenced in the regulation as requiring a longer period of time since the most recent conviction, Respondent has nonetheless satisfied the criterion.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's application for a real estate salesperson license is denied;
provided, however, a restricted real estate salesperson license shall be issued to
Respondent pursuant to Section 10156.5 of the Business and Professions Code. The
restricted license issued to Respondent shall be subject to all of the provisions of
Section 10156.7 of the Business and Professions Code and to the following
limitations, conditions and restrictions imposed under authority of Section 10156.6 of
said Code:

1. The license shall not confer any property right in the privileges to be
exercised, and the Real Estate Commissioner may by appropriate order suspend the
right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere)
of a crime which is substantially related to Respondent's fitness or capacity as a real
estate licensee; or

(b) The receipt of evidence 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 this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted
real estate license or the removal of any of the conditions, limitations or restrictions
attaching to the restricted license until four (4) years have elapsed from the date of
issuance of the restricted license to Respondent.

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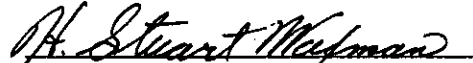
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3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

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

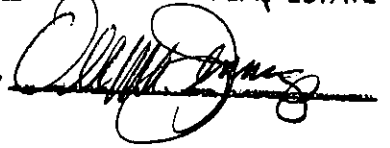
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

DATED: March 11, 2004


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

FILED
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DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

In the Matter of the Application of

ARTHUR ALDERETE

Respondent

Case No. H-30517 LA

OAH No. L-2004010040

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 March 3, 2004, at the hour of 9:00 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.

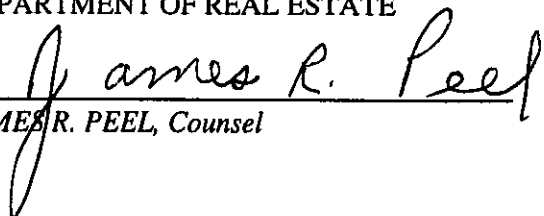
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: February 13, 2004

DEPARTMENT OF REAL ESTATE

By 
JAMES R. PEEL, Counsel

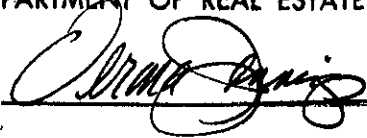
cc: Arthur Alderete
Ronald Talmo, Esq.
J. A. Miller/Sacto./OAH

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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)

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DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of) No. H-30517 LA
ARTHUR ALDERETE,) STATEMENT OF ISSUES
Respondent.)

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

I

On or about March 7, 2003, Respondent applied to the Department of Real Estate of the State of California for a real estate salesperson license. Respondent was previously denied a real estate license as a result of the Decision in Case No. H-28775 LA filed February 2, 2001.

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II

On or about July 2, 1997, in the Superior Court of California, County of Orange, Respondent was convicted of violating Penal Code Sections 236 (false imprisonment) and 243(e) (battery against noncohabitant), crimes involving moral turpitude and substantially related to the qualifications, functions or duties of a real estate licensee.

III

On or about September 22, 1998, in the Superior Court of California, County of Orange, Respondent was convicted of violating Penal Code Sections 240 (assault) and 243(E)(1) (battery spouse/cohabitant), crimes involving moral turpitude and substantially related to the qualifications, functions or duties of a real estate licensee.

IV

The matters described in Paragraphs II and III constitute cause for denial of Respondent's application for a real estate salesperson license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

The Statement of Issues is brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the Government Code.

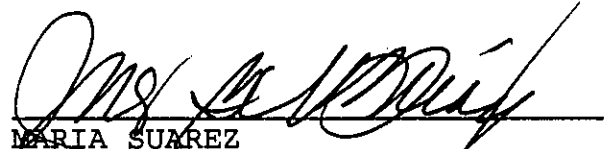
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WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent ARTHUR ALDERETE and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California,
this 25th day of November, 2003.



MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Arthur Alderete
Maria Suarez
Sacto.
CW
James Arthur Miller