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BEFORE THE DEPARTMENT OF REAL ESTATE AUG 17 2007

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

\* \* \*

By S. Ely

In the Matter of the Accusation of )  
HENRY EDWARD MENDEZ, JR., )  
Respondent. )

NO. H-2076 FR  
N-2007050213

DECISION

The Proposed Decision dated July 19, 2007, 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon  
on SEP 06, 2007.

IT IS SO ORDERED 8-15, 2007.

JEFF DAVI  
Real Estate Commissioner

Jeff Davi

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

HENRY EDWARD MENDEZ, JR.,

Respondent.

Case No. H-2076 FR

OAH No. N2007050213

**PROPOSED DECISION**

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 3, 2007, in Sacramento, California.

Michael B. Rich, Counsel, appeared on behalf of Charles W. Koenig, a Deputy Real Estate Commissioner (complainant).

Henry Edward Mendez, Jr. (respondent) was present and was represented by Charles W. Nugent, General Counsel, American Pacific Mortgage.

Evidence was received, the record was closed, and the matter was submitted on July 3, 2007.

**FACTUAL FINDINGS**

1. Complainant made and filed the Accusation in his official capacity.
2. Respondent is currently licensed by the Department of Real Estate (Department) as a real estate broker.
3. On July 7, 2005, in the Kern County Superior Court, in Case No. BF110353A, upon his plea of nolo contendere, respondent was convicted of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of alcohol (DUI)), and 23550 (offense occurred within 10 years of three or more convictions for DUI or reckless driving), a felony. The court suspended imposition of sentence and placed respondent on formal

probation for three years. The court ordered respondent to serve one year in the custody of the Kern County Sheriff, and gave respondent credit for one day served. The court also ordered respondent to successfully complete an in-patient alcohol program approved by his probation officer, and permitted respondent to be released to that program after serving 60 days in custody. In addition, the court ordered respondent to submit to alcohol testing and searches, to complete an 18-month county-approved drinking driver program, and to pay fines and fees. The court suspended respondent's driving privileges for four years.

4. The incident underlying this conviction occurred on May 7, 2005. Respondent was found passed out in his vehicle in the drive-through driveway of In-N-Out Burger. The results of respondent's breath test revealed that respondent's blood alcohol content was .15 percent. Respondent was 35 years old at the time of this incident.

5. Respondent's July 7, 2005 felony DUI conviction was also based upon the following prior convictions, which were alleged as matters in aggravation in the Accusation:

a. On May 7, 1996, in the Kern County Superior Court, respondent was convicted of violating Vehicle Code section 23152 (driving under the influence of alcohol).

b. On May 4, 2000, in the Kern County Superior Court, respondent was convicted of violating Vehicle Code section 23103 (reckless driving), as specified in Vehicle Code section 23103.5 (reckless driving substituted for driving under the influence of alcohol).

c. On October 15, 2003, in the Los Angeles County Municipal Court, respondent was convicted of violating Vehicle Code sections 2800.1 (operating a motor vehicle with the intent to evade a pursuing peace officer) and 23152, subdivision (b) (driving with 0.08 percent or more, by weight, of alcohol in his blood).

6. Respondent was still on probation for his October 2003 convictions when the incident underlying his July 7, 2005 felony DUI conviction occurred.

7. Respondent served 25 days of his 60-day jail sentence for his 2005 conviction. On his 25th day in jail, he woke up on the floor of his jail cell with a broken scapula and concussion, vomiting blood and bleeding from his ears. He did not know how he was injured. He was transferred to the infirmary. According to respondent, while he was in the infirmary, he accepted that he was an alcoholic and made a personal commitment to sobriety. He asserted that his time in jail was a frightening experience that he would never want to repeat.

8. In October 2005, respondent was released from jail to Animal House, a residential treatment program. Respondent lived at Animal House until the end of May 2006. While at Animal House, respondent regularly attended Alcoholics Anonymous (AA) meetings. According to respondent, his time at Animal House reinforced his realization that sobriety was a key to a truly successful life.

9. From June to November 2006, respondent attended New Beginnings classes at Alba Counseling Center. At Alba, respondent participated in weekly three-hour counseling sessions with other addicts.

10. Beginning in December 2006, respondent enrolled in an 18-month Multiple Offender DUI Program at Special Treatment, Education & Prevention Services, Inc. (STEPS). At STEPS, respondent attends a weekly two-hour group counseling session with other addicts. He also attends a one-on-one counseling session for 30 minutes every other week. As of April 16, 2007, he had completed 10 of the 26 required individual counseling sessions, six of the 12 hours of required alcohol and drug education classes, and 16 of the 52 hours of required group sessions. He expects to complete the STEPS program on June 23, 2008. Respondent's probation is scheduled to end in September 2008.

11. Respondent no longer drinks alcohol and has changed his personal and professional life to support his sobriety. Prior to July 2005, his social plans with friends typically involved going to bars. As a mortgage broker, his professional conduct involved "wining and dining" real estate agents to build friendships and obtain referral business. He has changed these patterns to create an alcohol-free environment. Now, he only socializes with people who respect and support his daily choice to remain sober. Professionally, he has emphasized marketing to his existing client database and pursues leads through mail advertisements. In addition, he has strengthened his relationships with two real estate agents who are aware of his alcohol addiction and encourage his rehabilitation efforts.

12. Respondent is not currently married. He is engaged to be married to a woman who supports his sober lifestyle. They plan to marry in 2008.

13. In January 2005, respondent joined American Pacific Mortgage. David Mack, the Chief Operating Officer testified on respondent's behalf. Mr. Mack is responsible for all aspects of the business, including compliance. Mr. Mack does not directly supervise respondent's work, but generally monitors all loan activity and files. Mr. Mack has not seen any complaints concerning respondent's loan files or challenges to respondent's loan activities. According to Mr. Mack, respondent is a "top drawer" mortgage broker, who takes quality service seriously and performs all tasks given to him in an exemplary fashion. Mr. Mack was aware of respondent's alcoholism and his convictions. He has seen respondent at company events since his 2005 conviction and observed that respondent abstained from alcohol. American Pacific Mortgage is willing to comply with any supervisory requirements that the Department may impose, if respondent's license were restricted.

14. Respondent submitted two letters of reference, which were admitted as administrative hearsay pursuant to Government Code section 11513, subdivision (d).<sup>1</sup>

Elizabeth Saucedo is a Production Assistant for American Pacific Mortgage. Ms. Saucedo began working with respondent in 2002, when they both worked at Countrywide Home Loans. She moved with respondent when he began working at American Pacific Mortgage. She has observed the changes respondent made in his life after serving jail time and living in a residential treatment facility. According to Ms. Saucedo, respondent has been humbled by the experience. He no longer ties his marketing to happy hour. Ms. Saucedo believes that respondent "sincerely cares about" their clients and "gives them a fair and honest loan."

Kurt Reisig is the Chief Executive Officer of American Pacific Mortgage. He has known respondent for three years. Mr. Reisig described respondent as a "very successful and driven self-made man" who "possesses the strength of character and the resolve to conquer his problems with alcohol." Mr. Reisig has observed respondent's recent adherence to sobriety. According to Mr. Reisig, American Pacific Mortgage will remain "vigilant in observing the behavior and habits of [respondent] in the future."

15. Respondent's testimony was direct and candid. He took full responsibility for his convictions. He admitted that remaining sober was "tough," but he works at it every day. He finds the type of counseling he is receiving through STEPS to be more beneficial to him than AA, and intends to continue with such counseling after his current program ends in June 2008. There was no evidence to indicate that respondent's alcoholism had ever adversely affected his work as a mortgage broker.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be revoked if the licensee has been convicted of a felony or a crime involving moral turpitude.<sup>2</sup> "Moral turpitude" means a general "readiness to do evil"...

<sup>1</sup> Government Code section 11513, subdivision (d) provides:

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.

<sup>2</sup> Business and Professions Code section 10177, in relevant part, provides:

The commissioner may suspend or revoke the license of a real estate licensee ... who 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.

i.e., 'an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.'" (*People v. Mansfield* (1988) 200 Cal.App.3d 82, 87, citations omitted.)

2. Respondent's 2005 DUI conviction was a felony and a crime of moral turpitude. As the court explained in *People v. Forster* (1994) 29 Cal.App.4th 1746, 1757:

Having suffered at least three previous convictions for driving under the influence, a person who has violated section 23175 [currently section 23550] is presumptively aware of the life-threatening nature of the activity and the grave risks involved. [Citation.] Continuing such activity despite the knowledge of such risks is indicative of a "conscious indifference or 'I don't care attitude' concerning the ultimate consequences" of the activity [citation] from which one can certainly infer a "depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man."

3. In addition to establishing that respondent's conviction was a felony and/or crime involving moral turpitude, complainant must also establish that respondent's conviction is substantially related to the qualifications, functions or duties of a real estate licensee in accordance with Business and Professions Code section 490.<sup>3</sup> (*Petropoulos v. Department of Real Estate* (2006) 142 Cal. App. 4th 554, 564-7.) In California Code of Regulations, title 10, section 2910, subdivision (a), the Department has set forth criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. In relevant part, section 2910, subdivision (a) provides that a crime will be deemed to satisfy the requirements of substantial relationship when it involves:

(11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

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<sup>3</sup> Business and Professions Code section 490 provides:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or 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.

Pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(11), respondent's conviction for felony DUI bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

4. Respondent's 2005 conviction for felony DUI establishes cause to revoke his license under Business and Professions Code sections 10177, subdivision (b), and 490.

5. In accordance with Business and Professions Code section 482, subdivision (b), the Department has adopted California Code of Regulations, title 10, section 2912, which sets forth criteria for determining whether a licensee who has been convicted of a crime has been sufficiently rehabilitated to support continued licensure.<sup>4</sup>

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<sup>4</sup> California Code of Regulations, title 10, section 2912 provides:

Criteria of Rehabilitation (Revocation or Suspension)

The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

- (a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts 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 licensee.
- (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- (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 criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- (h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- (j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.
- (k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

6. Respondent has a 10-year history of alcohol-related convictions. His most recent DUI conviction was two years ago. He was still on probation for his 2003 conviction when he was arrested in 2005. He is still on probation for his 2005 felony DUI conviction. (See *In re Gossage* (2000) 23 Cal.4th 1080, 1099 [“Since persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that a bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole.”].)

7. Respondent appears, however, to be making a significant effort to remain sober. He testified that his jail time was such a frightening “life-changing experience” that he never wants to go through it again. Respondent’s commitment to sobriety appeared to be sincere. He has taken steps to establish new and different social and business relationships from those which existed in the past in an effort to remove himself from the environments that enabled his drinking. He appears to be involved in a stable relationship that encourages his continued sobriety. His employer is willing to supervise him, if his license is restricted. When all the factors and circumstances are weighed and balanced, it would not be contrary to the public interest and welfare to allow respondent to remain licensed under restricted terms and conditions.

#### ORDER

All licenses and licensing rights of respondent Henry Edward Mendez, Jr., under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor 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 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 that Code:

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(m) Change in attitude from that which existed at the time of the commission of the criminal acts 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 the licensee’s previous conduct and with 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, clinical psychologists, sociologists 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.



1. The restricted 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 comply with the terms and conditions of his criminal probation in Case No. BF110353A. Any violation of criminal probation shall be deemed a violation of the terms of respondent's restricted real estate license.

4. 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 four (4) years have elapsed from the effective date of this Decision.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which respondent engaged during, the period covered by the report.

7. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of

the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

8. 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:

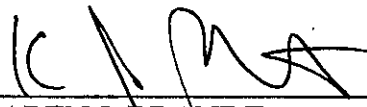
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(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.

9. Respondent shall regularly attend (at least once a week) an alcohol counseling program until such time as his counselor certifies in writing that respondent no longer needs to attend. On a quarterly basis, respondent shall report such regular attendance to the Department under penalty of perjury.

DATED: July 19, 2007

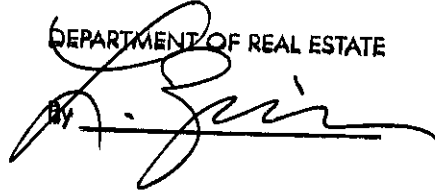
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JUL 20 2007

  
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KAREN J. BRANDT  
Administrative Law Judge  
Office of Administrative Hearings

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6 Telephone: (916) 227-0789

FILED  
JUN 25 2007

DEPARTMENT OF REAL ESTATE

By 

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) H-2076 FRESNO  
12 )  
13 HENRY EDWARD MENDEZ, Jr., )  
14 ) FIRST AMENDED  
Respondent. ) ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Accusation against HENRY EDWARD MENDEZ, Jr., (hereinafter  
18 "Respondent"), is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license  
21 rights under the Real Estate Law (Part 1 of Division 4 of the  
22 Business and Professions Code) (hereinafter "the Code") as a  
23 real estate broker.

24 II

25 The Complainant, Charles W. Koenig, a Deputy Real  
26 Estate Commissioner of the State of California, makes this  
27 Accusation in his official capacity.

1 III

2 On or about October 13, 2005, in the Superior Court,  
3 County of Kern, State of California, in case number BF110353A,  
4 Respondent was convicted of a violation of Section 23152(a) of  
5 the California Vehicle Code (Unlawfully driving a vehicle while  
6 under the influence of alcohol) pursuant to Section 23540 of the  
7 California Vehicle Code (Mandatory jail sentence for violating §  
8 23152 with prior conviction for violating §§ 23103.5, 23152, or  
9 23153 within seven years), a felony and a crime involving moral  
10 turpitude which bears a substantial relationship under Section  
11 2910, Title 10, California Code of Regulations, to the  
12 qualifications, functions, or duties of a real estate licensee.

13 IV

14 The facts alleged above, individually and/or  
15 collectively, constitute cause under Sections 490 and 10177(b)  
16 of the Code for suspension or revocation of all licenses and  
17 license rights of Respondent under the Real Estate Law.

18 MATTERS IN AGGRAVATION

19 V

20 On or about May 7, 1996, in the Superior Court, County  
21 of Kern, State of California, in case number 50930, Respondent  
22 was convicted of violating Section 23152 of the California  
23 Vehicle Code (Unlawfully driving a vehicle while under the  
24 influence of alcohol), a crime involving moral turpitude and a  
25 crime which bears a substantial relationship under Section 2910,  
26 Title 10, California Code of Regulations, to the qualifications,  
27 functions, or duties of a real estate licensee.

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VI

On or about May 4, 2000, in the Superior Court, County of Kern, State of California, in case number 59664, Respondent was convicted of violating Section 23103 of the California Vehicle Code (Drive vehicle upon highway in willful and wanton disregard for safety) pursuant to Section 23103.5 of the California Vehicle Code (Substitute charge of Section 23103 in lieu of driving under the influence under Section 23152), a crime involving moral turpitude 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.


VII

On or about October 15, 2003, in the Municipal Court, County of Los Angeles, State of California, in case number G05420201, Respondent was convicted of violating Section 2800.1 of the California Vehicle Code (While operating a motor vehicle, intentionally evade, willfully flee, or elude pursuing police vehicle) and Section 23152(b) of the California Vehicle Code (Driving under the influence while having a blood alcohol level of .08% or more), crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under the provisions of law.

  
\_\_\_\_\_  
CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 25<sup>th</sup> day of June, 2007.

FILED

MAR 28 2007

DEPARTMENT OF REAL ESTATE

By S. Ely

1 MICHAEL B. RICH, Counsel  
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5 Sacramento, CA 95818-7007  
6 Telephone: (916) 227-0789  
7  
8

9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 HENRY EDWARD MENDEZ, Jr., ) H-2076 FR  
14 Respondent. ) ACCUSATION

15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against HENRY EDWARD MENDEZ, Jr., (hereinafter "Respondent"), is  
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license  
21 rights under the Real Estate Law (Part 1 of Division 4 of the  
22 Business and Professions Code) (hereinafter "the Code") as a  
23 real estate broker.  
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1 III

2 On or about October 13, 2005, in the Superior Court,  
3 County of Kern, State of California, in case number BF110353A,  
4 Respondent was convicted of a violation of Section 23152(a) of  
5 the California Vehicle Code (Unlawfully driving a vehicle while  
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7 California Vehicle Code (Mandatory jail sentence for violating §  
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12 qualifications, functions, or duties of a real estate licensee.

13 IV

14 The facts alleged above, individually and/or  
15 collectively, constitute cause under Sections 490 and 10177(b)  
16 of the Code for suspension or revocation of all licenses and  
17 license rights of Respondent under the Real Estate Law.

18 MATTERS IN AGGRAVATION

19 V

20 On or about May 7, 1996, in the Superior Court, County  
21 of Kern, State of California, in case number 50930, Respondent  
22 was convicted of violating Section 23152 of the California  
23 Vehicle Code (Unlawfully driving a vehicle while under the  
24 influence of alcohol), a crime involving moral turpitude and a  
25 crime which bears a substantial relationship under Section 2910,  
26 Title 10, California Code of Regulations, to the qualifications,  
27 functions, or duties of a real estate licensee.



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VI

On or about May 4, 2000, in the Superior Court, County of Kern, State of California, in case number 59664, Respondent was convicted of violating Section 23103 of the California Vehicle Code (Drive vehicle upon highway in willful and wanton disregard for safety) pursuant to Section 23103.5 of the California Vehicle Code (Substitute charge of Section 23103 in lieu of driving under the influence under Section 23152), a crime involving moral turpitude 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.

VII

On or about October 15, 2003, in the Municipal Court, County of Los Angeles, State of California, in case number G05420201, Respondent was convicted of violating Section 2800.1 of the California Vehicle Code (While operating a motor vehicle, intentionally evade, willfully flee, or elude pursuing police vehicle) and Section 23152(b) of the California Vehicle Code (Driving under the influence while having a blood alcohol level of .08% or more), crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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\_\_\_\_\_  
JOHN W. SWEENEY  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 20<sup>th</sup> day of February 2007.