

FILED

MAR 19 2009

DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By H. Mar

In the Matter of the Application of)

ISAAC JIMÉNEZ NIETO, JR.,)

Respondent.)

No. H-2294 FR

OAH No. 2008110251

DECISION

The Proposed Decision dated February 13, 2009, 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.

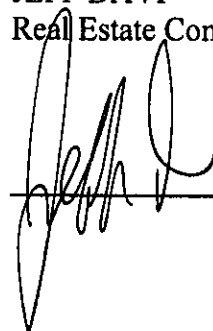
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy 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 appended hereto.

This Decision shall become effective at 12 o'clock noon on APR - 9 2009

IT IS SO ORDERED 2/18/09

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

ISAAC JIMENEZ NIETO, JR.,

Respondent.

Case No. H-2294 FR

OAH No. 2008110251

PROPOSED DECISION

This matter was heard before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, on January 14, 2009, in Sacramento, California.

Richard K. Uno, Counsel, Department of Real Estate, represented the complainant.

Isaac Jimenez Nieto, Jr., appeared on his own behalf.

The case was submitted for decision on January 14, 2009.

FACTUAL FINDINGS

1. Complainant, John W. Sweeney, a Deputy Real Estate Commissioner of the State of California, filed the Statement of Issues in his official capacity on September 15, 2008. The Statement of Issues was amended at hearing as follows:

At page 4, line 7: delete "9" in the case number to reflect "MS187178A"

2. Respondent made application to the Department of Real Estate of the State of California (Department) for a real estate salesperson license on or about May 4, 2007. The application is subject to the provisions of Business and Professions Code section 10153.4.

Criminal Conviction History

3. On September 11, 1996, respondent was convicted in the Superior Court of California, County of Santa Cruz, in Case Number S6-03859, on his plea of nolo contendere to violating Vehicle Code sections 23152, subdivision (a) (driving under the influence (DUI) of alcohol), a misdemeanor. Imposition of sentence was suspended, and respondent was

placed on five years informal probation, with terms and conditions, including three days county jail, enrollment in the First Offender DUI program, 12 months restricted driver's license, and fines/restitution in the amount of \$1,538.

The facts and circumstances of the conviction were these: On the night of August 18, 1996, police stopped respondent for driving the wrong way on a one-way street. Upon arrest, respondent admitted drinking beer that evening. Police observed a grocery bag of unopened beer cans on the floor of the passenger compartment. Respondent's blood alcohol count (BAC) at the time of arrest was .22 percent.¹ Respondent was 18 years old at the time. He subsequently completed an 18-month alcohol program which he testified was "a good experience" on his path to recovery.

4. On January 14, 1997, respondent was convicted in the Municipal Court of California, County of Monterey, in Case Number MS963185A, on his plea of guilty to violating Penal Code section 148 (resisting/delaying/obstructing a public officer) and Vehicle Code sections 23152, subdivision (b) (driving with a BAC of .08 percent or more), 2800.2 (evading a peace officer), and 14601.5, subdivision (a) (driving when license suspended for excessive blood alcohol), all misdemeanors. Respondent was placed on five years probation, with terms and conditions, including 120 days county jail, restricted driver's license, and fines in the amount of \$1,400. On April 5, 2001, the court modified respondent's restricted license to allow him to drive for employment purposes.

The offense date was December 29, 1996. At hearing, respondent testified that he wanted to get away from police because it was his second DUI. He did not think the city police would follow him onto highway 101. Respondent candidly took responsibility for his misconduct.

5. On or about May 28, 1997, in the Superior Court of California, County of Monterey, in Case No. MS156865A, respondent was convicted, upon his plea of guilty, to violating Vehicle Code section 10751, subdivision (a) (receiving vehicle component with defaced identification number), a misdemeanor. The judgment and sentencing was not established by the evidence.

Respondent admitted the conviction in his application for licensure and at hearing. According to respondent, the circumstances of the offense were as follows: Respondent was incarcerated from December 29, 1996 to March 15, 1997. Shortly after his release from custody, he purchased an Oldsmobile Cutlass. He stated he obtained a "pink slip" from the seller and believed the transaction was legitimate. He could not recall the sales price. He was subsequently arrested for vehicle theft. However, since the car was stolen on December 31, 1996, and respondent was incarcerated on that date, the charge was reduced to possession of a vehicle with an altered identification number.

¹ A certified copy of the Superior Court of Santa Cruz County minute order for the plea date of September 11, 1996, provides respondent's BAC at .22 percent.

6. Complainant has alleged that on September 25, 1997, in the Superior Court of California, County of San Monterey, in Case No. C020892, respondent was convicted, upon his plea of guilty, to violating Penal Code section 148 (resisting/obstructing a public officer), and Vehicle Code section 2800.2 (evading a peace officer). The details of respondent's plea, judgment, and sentence were not established by the evidence.² At hearing, respondent did not recall this incident or any resulting conviction. There is insufficient evidence to find respondent was convicted of one or both of the charged offenses.

Matters in Aggravation

7. On May 29, 1998, in the Superior Court of California, County of Monterey, in Case No. MS161379, respondent was convicted, upon his plea of guilty, to violating Business and Professions Code section 25662 (possession of alcohol in a public place by person under 21 years of age), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on three years probation, with terms and conditions, including 19 days in county jail, one year driver's license suspension, and fines of \$100. The arrest date was May 11, 1998. According to respondent, the 19 days custody included time in lieu of payment of \$1,200 in fines from a prior case.

8. On January 20, 1999, in the Municipal Court of California, County of Monterey, in Case No. MS170481A, respondent was convicted, upon his plea of guilty, to violating Penal Code section 647, subdivision (f) (under influence of drugs/alcohol in a public place), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on one year probation, with terms and conditions, including five days in county jail, and fines of \$100.³

9. On November 14, 2000, in the Municipal Court of California, County of Monterey, in Case No. MS187178A, respondent was convicted, upon his plea of guilty, to violating Vehicle Code section 14601.2 (driving when license suspended for prior DUI), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on three years probation, with terms and conditions, including ten days in county jail, and fines of \$335.

10. Respondent has been sober for three years. His treatment included an 18-month Second Offender Program ordered by the court after his DUI conviction in 1997. He also attended alcoholics anonymous (AA) for 18 months, on order of the court. He does not currently attend 12-step meetings as he feels that AA keeps you "thinking about it" and he

² Complainant submitted a Department of Justice finger print record indicating respondent was "arrested" on September 25, 1997, on charges that he violated Penal Code section 148 (resisting/obstructing peace officer) and Vehicle Code section 2800.2 (evading). This record indicates respondent served 30 days on the sheriff's alternative work program. The record does not establish conclusive evidence of a criminal conviction.

³ Complainant alleged a separate conviction on January 20, 1999, in Case No. MS169889A, for a violation of Vehicle Code section 14601.2, subdivision (a), however, the charge was not established by the evidence.

would prefer to keep his mind focused on positive things. To that end, respondent coached soccer and tee-league baseball during the 2008 season and will coach his sons' teams again this year. He has also been involved with a Toast Masters public speaking group.

11. Respondent is 29 years old. He is not on probation for any offense. He holds a valid, unrestricted California Driver's License. Respondent has been married since 1999 and has three children, a daughter, age nine and two sons, ages five and seven. Respondent credits his desire to set a good example for his children, as the motivating factor to his sustained sobriety. He reflected, "How can I tell them not to drink if they see me do it." Respondent attends church weekly with his family. He also maintains a close relationship with his twelve young nieces and nephews. He stated, "I talk to them about the importance of education and not following the easy route. I motivate them." Respondent submitted a letter to the Department with his application for licensure, attesting to the positive personal and professional changes he has made in his life.

12. To escape negative associations, respondent moved his family from Salinas to Fresno, California in 2005. He worked for two years as a loan processor at Family Lending Center (dba Newquest). He left this position due to slowness in the conventional loan market. He currently works for Great Land Mortgage as an FHA mortgage loan processor. His duties involve obtaining files from realtors, submitting on-line applications to various lenders, locking in rates, working on lender conditions, ordering closing documents, opening escrow, collecting preliminary reports, ordering appraisals, and communicating with appraisers and loan officers. Respondent wants to be a real estate salesperson because he likes communicating with people. He completed the 45-hour California Real Estate Principles course on May 19, 2006. He submitted his course completion certificate to the Department along with his application for licensure. (Bus. & Prof. Code, §10153.2.)

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 480, subdivision (a)(1), states:

- (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime. 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.

[¶]...[¶]

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

2. Business and Professions Code section 10177, subdivision (b),⁴ states in relevant part:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(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.

[¶] ...[¶]

3. California Code of Regulations, title 10, section 2910 states, in relevant part:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

⁴ The language of Business and Professions Code section 10177, subdivision (b), was modified by the legislature, effective January 1, 2008, such that the Department was no longer required to prove that crimes forming the basis for discipline, involve moral turpitude. Respondent's application for licensure was filed May 4, 2007, hence, the Department has alleged and must establish moral turpitude for each criminal conviction pled in the Statement of Issues as a cause for discipline.

- (1) Fraudulently taking, obtaining, appropriating or retaining of funds or property belonging to another person.

[¶] ...[¶]

- (10) Conduct which demonstrates a pattern of repeated and willful disregard of the law.
 - (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.
- (c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.

Moral Turpitude

4. A criminal act involves moral turpitude if it involves a serious breach of a duty owed to another or to society. (*In re Stuart K. Lesansky* (2001) 25 Cal.4th 11, 16; [citing *In re Johnson* (1992) 1 Cal.4th 689, 699; *In re Calaway* (1977) 20 Cal.3d 165, 169-170; *In re Higbie* (1972) 6 Cal.3d 562, 569-570].) Acts of moral turpitude encompass "everything done contrary to justice, honesty, modesty or good morals." (*Rice v. Alcoholic Beverage Control Appeals Board* (1979) 89 Cal.App.3d 30, 36.) "Moral turpitude is inherent in crimes involving fraudulent intent, intentional dishonesty for purposes of personal gain or other corrupt purpose." (*Rice, supra*, 89 Cal.App.3d at p. 37; *Golde v. Fox* (1979) 98 Cal.App.3d 167, 185.)

Respondent's two misdemeanor DUI convictions in 1996 and 1997, do not by law amount to crimes of moral turpitude.⁵ (*People v. Forster* (1994) 29 Cal.App.4th 1746, 1757; *In re Kelley* (1990) 52 Cal.3d 487.) Likewise, respondent's misdemeanor resisting/delaying/obstructing conviction (Pen. Code, §148) is not a crime of moral turpitude.⁶

⁵ Felony DUI convictions by individuals convicted of four or more DUI offenses within a statutory time frame of seven or ten years, have been held to involve moral turpitude, based on the perpetrators awareness and willingness to engage in risky activity. (*People v. Forster* (1994) 29 Cal.App.4th 1746, 1757.)

⁶ California courts have held that resisting an executive officer (Pen.Code, § 69) and battery upon a peace officer (Pen.Code, § 243, subd. (c)), are crimes of moral turpitude. However, no reported cases have determined that misdemeanor resisting/delaying/obstructing a peace officer (Pen.Code, § 148) is a crime of moral turpitude. (*People v. Williams* (1999) 72 Cal.App.4th 1460, 1462, fn. 3.)

A violation of section 2800.2 is a crime of moral turpitude and evinces a general readiness to do evil. (*People v. Dewey* (1996) 42 Cal.App.4th 216, 221.) The fact that a violation of section 2800.2 always involves an "intent to evade" the pursuing officer provides additional justification for concluding that the offense constitutes a crime of moral turpitude. (*Dewey, supra*, 42 Cal.App.4th at p. 222.)

Finally, a violation of Vehicle Code section 10751, is a crime of moral turpitude. Vehicle Code section 10751, subdivision (a) states: "No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any vehicle, or component part thereof, from which the manufacturer's serial or identification number has been removed, defaced, altered, or destroyed, unless the vehicle or component part has attached thereto an identification number assigned or approved by the department in lieu of the manufacturer's number." Though the vehicle was later determined to be stolen by someone other than respondent (Finding 5), respondent was convicted of "knowing" possession of a vehicle from which the manufacturer's identification number had been removed or altered; fraudulent intent is inherent in commission of the crime.

Substantial Relationship

5. The crime of possessing a vehicle containing an altered identification number in violation of Vehicle Code section 10751, as set forth in Finding 5, is substantially related to the qualifications, functions and duties of a real estate licensee as defined in California Code of Regulations, title 10, section 2910, subdivision (a)(1), the fraudulent retaining of property belonging to another person.

6. The crime of evading a peace officer in violation of Vehicle Code section 2800.2, as set forth in Finding 4, is substantially related to the qualifications, functions and duties of a real estate licensee as defined in California Code of Regulations, title 10, section 2910, subdivision (a)(10); and together with his conviction as set forth in Finding 5, demonstrates a pattern of repeated and willful disregard of law.

Cause for Discipline

7. A preponderance of evidence established cause for denial of respondent's application for a real estate salesperson license in that respondent's convictions for evasion (Veh. Code, § 2800.2) and possession of altered car parts (Veh. Code, §107510) (Findings 4 and 5), amount to crimes of moral turpitude that are also substantially related to the qualifications, functions and duties of a real estate salesperson, by reason of Legal Conclusions 4, 5 and 6. (Bus. and Prof. Code, §§ 480, subd.(a)(1) and 10177, subd. (b).)

8. Cause for denial of respondent's application for a real estate salesperson license was not established by reason of respondent's misdemeanor convictions for DUI (Veh. Code, §23152, subds. (a) & (b)), resisting arrest (Pen. Code, § 148), and driving with a suspended license (Veh. Code, § 14601.5, subd. (a)), in that these crimes do not involve

moral turpitude (Finding 4), as is required for applications submitted prior to January 1, 2008. (Bus. & Prof. Code, §10177, subd. (b); *Petropoulos v. Dept. of Real Estate* (2006) 142 Cal.App.4th 554, 565, 567.)

Rehabilitation

9. The department has developed guidelines to evaluate the rehabilitation of a licensee, which are set forth in California Code of Regulations, title 10, section 2912. Relevant criteria to be considered in the present case include: the passage of not less than two years from the most recent substantially related conviction, expungement of the conviction, completion of or early discharge from probation/parole, payment of fines/restitution, 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 convictions in question, stability of family life and fulfillment of parental responsibilities, enrollment in educational or training courses, significant and conscientious involvement in community or church programs, and any change in attitude from that which existed at the time of the incident in question. (Cal. Code. Regs., tit. 10, § 2912, subds. (a), (b), (c), (e), (g), (i), (j), (k), (l), and (m).)

10. In consideration of these guidelines, respondent has suffered two convictions for crimes that are substantially related to the qualifications and duties of a real estate salesperson. (Findings 4 and 5.) The last of these convictions, for possession/receiving altered vehicle part (Veh. Code, § 10751, subd. (a)), occurred almost twelve years ago on May 28, 1997. (Finding 5.) Respondent has paid all of his court ordered fines/restitution. He is not on probation for any qualifying offense, nor for any offense alleged as a matter in aggravation. His last conviction for driving with a suspended license occurred over eight years ago, on November 14, 2000. (Finding 9.)

Respondent does not use drugs or drink alcoholic beverages. He has been clean and sober for three years. Though he no longer attends AA meetings, his sobriety is motivated by his desire to be a positive role model for his children, nieces and nephews. In 2005, respondent made a decision to leave the negative associations in Salinas and move his family to Fresno where he remains gainfully employed in the mortgage lending industry. He enjoys his work as a mortgage processor which includes administering paperwork and communicating with mortgage professionals. He has been married since 1999 and has three children ages five to nine. He shares close family relationships and talks to his young relatives about making good choices. Respondent attends church regularly and volunteers as a coach for his sons' tee-ball and soccer teams. In preparation for his license, respondent has completed the real estate principles course.

It is clear to see that respondent went through a period of making bad choices. The convictions which form the basis for respondent's license discipline occurred when he was 18 and 19 years of age. Though not an excuse, this is a period of immaturity for many young adults. Complicating respondent's decisions was his use of alcohol. He testified convincingly that he had made a personal decision to change his lifestyle and abstain even

socially from intoxicating beverages or drugs. Several years have passed since respondent has had any negative contact with law enforcement. Given the positive and productive lifestyle respondent has created for himself and his family, he has shown the requisite rehabilitation for successful licensure.

Conclusion

11. Respondent has sustained his burden to establish that he can be licensed at this time without harm to the public, with appropriate restrictions and conditions.

ORDER

The application of Isaac Jimenez Nieto, Jr., for a real estate salesperson license is denied by reason of Legal Conclusions 4 through 7; provided, however, that pursuant to Legal Conclusions 9, 10, and 11, a conditional restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7, and to the following limitations, conditions and restrictions imposed under the 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 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until three (3) years have elapsed from the date of issuance of the restricted license to respondent.

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.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Business and Professions Code section 10153.4, to wit: respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one 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 timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting of the suspension.

5. Pursuant to Business and Professions Code section 10154, if respondent has not satisfied the requirements for an unqualified license under section 10153.4, respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to section 10153.4 until four years after the date of the issuance of the preceding restricted license.

Dated: February 13, 2009



DIAN M. VORTERS
Administrative Law Judge
Office of Administrative Hearings

FILED

SEP 15 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)
ISAAC JIMENEZ NIETO, JR.,) NO. H- 2294 FR
Respondent.) STATEMENT OF ISSUES

The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against ISAAC JIMENEZ NIETO, JR., (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about May 4, 2007, 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 of the Business and Professions Code.

II

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

///

1 III

2 On or September 11, 1996, in the Municipal Court, County of Santa Cruz, State
3 of California, in case number S6-03859, Respondent was convicted of a violation of Section
4 23152(a) of the California Vehicle Code (Unlawfully driving a vehicle while under the
5 influence of alcohol), a misdemeanor and a crime involving moral turpitude which bears a
6 substantial relationship under Section 2910, Title 10, California Code of Regulations, to the
7 qualifications, functions, or duties of a real estate licensee.

8 IV

9 On or January 29, 1997, in the Municipal Court, County of Monterey, State of
10 California, in case number MS963185A, Respondent was convicted of violating Section 2800.2
11 of the California Vehicle Code (Fleeing or attempting to elude a peace officer while driving
12 pursued vehicle with willful and wanton disregard for safety of others), Section 148(a) of the
13 California Penal Code (Willfully resists, delays, or obstructs police officer), Section 23152(b) of
14 the California Vehicle Code (Driving under the influence while having a blood alcohol level of
15 .08% or more), and Section 14601.5(a) of the California Vehicle Code (Knowingly driving
16 while driver's license suspended for failure to take chemical test or for driving with specified
17 BAC), misdemeanors and crimes involving moral turpitude which bear a substantial
18 relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications,
19 functions, or duties of a real estate licensee.

20 V

21 On or about May 28, 1997, in the Municipal Court, County of Monterey, State of
22 California, in case number MS156865A, Respondent was convicted of violating Section
23 10751(a) of the California Vehicle Code (Buy, sell, offer, receive, possess any vehicle or
24 component part from which identification number has been removed, defaced or altered), a
25 misdemeanor involving moral turpitude and a crime which bears a substantial relationship under
26 Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties
27 of a real estate licensee.

1 VI

2 On or about September 25, 1997, in the Municipal Court, County of Monterey,
3 State of California, in case number C020891, Respondent was convicted of violating Section
4 2800.2 of the California Vehicle Code (Fleeing or attempting to elude a peace officer while
5 driving pursued vehicle with willful and wanton disregard for safety of others) and Section
6 148(a) of the California Penal Code (Willfully resists, delays, or obstructs police officer),
7 misdemeanors and crimes involving moral turpitude which bear a substantial relationship under
8 Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties
9 of a real estate licensee.

10 MATTERS IN AGGRAVATION

11 VII

12 On or about May 29, 1998, in the Municipal Court, County of Monterey, State of
13 California, in case number MS161379A, Respondent was convicted of a violation of Section
14 25662 of the California Business and Professions Code (Person under 21 years of age in
15 possession of alcoholic beverage in public place, street or highway), a misdemeanor and a crime
16 which bears a substantial relationship under Section 2910, Title 10, California Code of
17 Regulations, to the qualifications, functions, or duties of a real estate licensee.

18 VIII

19 On or about January 20, 1999, in the Municipal Court, County of Monterey, State
20 of California, in case number MS170481A, Respondent was convicted of a violation of Section
21 647(f) of the California Penal Code (Under the influence of alcohol or drugs in a public place
22 such that he or she is unable to care for his or her own safety or the safety of others), a
23 misdemeanor and a crime which bears a substantial relationship under Section 2910, Title 10,
24 California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

25 IX

26 On or about January 20, 1999, in the Municipal Court, County of Monterey, State
27 of California, in case number MS169889A, Respondent was convicted of a violation of Section

1 14601.2(a) of the California Vehicle Code (Knowingly driving while license suspended for
2 driving under the influence), a misdemeanor and a crime which bears a substantial relationship
3 under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or
4 duties of a real estate licensee.

5 X

6 On or about March 22, 2001, in the Municipal Court, County of Monterey, State
7 of California, in case number MS1871789A, Respondent was convicted of a violation of Section
8 14601.2(a) of the California Vehicle Code (Knowingly driving while license suspended for
9 driving under the influence), a misdemeanor and a crime which bears a substantial relationship
10 under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or
11 duties of a real estate licensee.

12 XI

13 The crimes of which Respondent was convicted, as alleged in Paragraphs III, IV,
14 V, and VI, above, individually and collectively, constitute cause for denial of Respondent's
15 application for a real estate license under Sections 480(a) and 10177(b) of the California
16 Business and Professions Code.

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

22
23 
24 JOHN W. SWEENEY
Deputy Real Estate Commissioner

25 Dated at Fresno, California,
26 this 10th day of September, 2008.
27