

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED

MAR 13 2009

DEPARTMENT OF REAL ESTATE

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In the Matter of the Application of )  
SELSO SALAS LEON, )  
Respondent. )

By R. Henry  
NO. H-2304 FR  
OAH NO. 2008110221

DECISION

The Proposed Decision dated February 5, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon  
on APR 2 2009.

IT IS SO ORDERED March 13, 2009

JEFF DAVI  
Real Estate Commissioner

By: William E. Moran  
William E. Moran  
Assistant Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

SELSO SALAS LEON,

Respondent.

Case No. H-2304 FRESNO

OAH No. 2008110221

**PROPOSED DECISION**

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Fresno, California, on January 20, 2009.

Kenneth C. Espell, Real Estate Counsel, Department of Real Estate, State of California, represented the complainant, John W. Sweeney, Deputy Real Estate Commissioner.

The respondent, Selso Salas Leon, appeared in propria persona.

The record was closed on January 20, 2009.

**FACTUAL FINDINGS**

**BACKGROUND**

1. By an application filed with the Department of Real Estate on September 27, 2007, the respondent, Selso Salas Leon, applied for licensure as a real estate salesperson.

2. In the application, he disclosed that he had been convicted of crimes. The department denied respondent's application, and he appealed.

**CONVICTIONS**

3. On March 24, 1998, in the Superior Court of the State of California for the County of Fresno, respondent was convicted of a violation of Vehicle Code section 14601, subdivision (a), driving without a license, a misdemeanor.<sup>1</sup> The conviction was on a plea of

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<sup>1</sup> Complainant alleged that this conviction occurred on or about November 13, 1998.

guilty. The court assessed a fine of \$1,350 but provided that, if by June 5, 1998, respondent produced proof of insurance, the fine would be reduced to \$103.

4. The incident that gave rise to the March 24, 1998, conviction occurred on February 7, 1998. A police officer stopped respondent for driving the wrong way on a one-way street. On checking respondent's driver's license, the officer learned that it had been suspended.

5. On September 9, 1998, in the Superior Court of the State of California for the County of Fresno, respondent was convicted of a violation of Health and Safety Code section 11357, subdivision (b), possession of under one ounce of marijuana, a misdemeanor. The conviction was on a plea of guilty. The court placed respondent on probation for three years. As a condition of probation, the court required respondent to pay a fine of \$100.

6. Respondent testified that he was arrested for possession of marijuana as a result of being with bad guys.

7. On September 21, 2001, in the Superior Court of the State of California for the County of Fresno, respondent was convicted of a violation of Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of over .08 percent, a misdemeanor. The conviction was on a plea of guilty. The court placed respondent on conditional probation for three years. As a condition of probation, the court required respondent to submit to incarceration in the county jail for 60 days. The court, however, suspended all but 10 days of the incarceration. As further conditions the court required respondent to complete a driving-under-the-influence program, participate in an adult offender work program, and pay fines and fees of over \$1,200. The court, however, provided that the fines and fees would be reduced by \$600 if respondent complied with certain conditions of probation.

8. The incident that gave rise to the September 21, 2001, conviction occurred on June 30, 2001. A police officer stopped respondent for speeding. The officer observed that respondent was inebriated.

9. On December 11, 2001, in the Superior Court of the State of California for the County of Fresno, respondent was convicted of a violation of Vehicle Code section 23103, subdivision (a), the crime of wet reckless, a misdemeanor. The conviction was on a plea of guilty. The court placed respondent on conditional probation for three years. As conditions of probation, the court required respondent to complete a 12-hour driving-under-the-influence program and pay fines and fees of \$500. The court, however, provided that the fines and fees would be reduced by one-half if respondent completed the driving program by a certain date.

10. On January 19, 2005, in the Superior Court of the State of California for the County of Fresno, respondent was convicted of a violation of Vehicle Code section 14601.1, subdivision (a), driving without a license, a misdemeanor. The conviction was on a plea of nolo contendere. The court placed respondent on conditional probation for three years. As a

condition of probation, the court required respondent to submit to incarceration in the county jail for 10 days. As a further condition of probation, the court imposed fines and fees of over \$2,700 and required respondent to participate in an adult offender work program.

11. The incident that gave rise to the January 19, 2005, conviction occurred on July 31, 2004. A police officer stopped respondent for failing to stop at a stop sign. On checking respondent's driver's license, the officer learned that it had been suspended.

12. On February 3, 2005, in the Superior Court of the State of California for the County of Santa Clara, respondent was convicted of a violation of Vehicle Code section 14601.1, subdivision (a), driving without a license, a misdemeanor. The conviction was on a plea of guilty. The court placed respondent on court probation for one year. As a condition of probation, the court required respondent to submit to incarceration in the county jail for two days. As a further condition of probation, the court imposed fines and fees of \$575.

13. The incident that gave rise to the February 3, 2005, conviction occurred on December 20, 2004. A police officer stopped respondent for going through a red light. On checking respondent's driver's license, the officer learned that it had been suspended.

14. On April 6, 2007, in the Superior Court of the State of California for the County of Kern, respondent was convicted of a violation of Vehicle Code section 14601.1, subdivision (a), driving without a license, a misdemeanor, and a violation of Vehicle Code section 40508, subdivision (a), failure to appear, a misdemeanor. The convictions were on a plea of guilty. The court placed respondent on probation for three years. As a condition of probation, the court required respondent to pay fines and fees of \$1,220. The court also imposed standard conditions of probation and advised respondent that, if he suffered an additional conviction for driving without a license, the court would order that his vehicle be confiscated and sold at auction. Respondent's probation is scheduled to terminate in April of 2010.

15. The 2007 conviction resulted from a citation that was issued on May 30, 2001. An officer of the California Highway Patrol issued the citation after stopping respondent for speeding. Respondent was traveling on highway 99 at a speed in excess of 95 miles per hour. The speed limit was 70 miles per hour. The citation ordered him to appear on June 22, 2001, but he did not obey it. Indeed, he did not appear until March of 2007, almost six years after the date on which he was ordered to appear.

#### *REHABILITATION*

16. Respondent testified that he has turned his life around. He said he has had no citations since the one on December 20, 2004. He said he takes full responsibility for having made the very bad choices he made in the past and that he is determined not to repeat them. He said he now takes pride in being an upstanding citizen and strives to be humble and kind.

17. Respondent testified that he no longer drinks to excess and that, when he does drink, he does not drive. He said one of the driving-under-the-influence programs he was required to take as a condition of one of his probations made a profound impression on him. It was a "Scared Stiff" program, one part of which involved going to a morgue and another part of which involved talking with a parent whose child had been killed by a drunk driver.

18. Respondent's testimony concerning his determination to be law abiding was very credible.

19. Respondent emphasized that there is no evidence of his ever having been dishonest.

20. Respondent has a fiancée. They have been together six years. He credits her with having been one "reason [he] got [his] life together."

21. In 2008, respondent worked at Bella Pasta for two months. Respondent's sister works but earns a modest income. She qualifies for a supportive services program pursuant to which the City of Fresno pays for child care for her two children. Respondent takes care of the children. Respondent and his fiancée own two rental properties, and in addition to caring for his sister's children, respondent manages those properties. Also, occasionally, respondent helps his stepfather in the stepfather's landscaping business.

22. Respondent testified that he volunteered at the Boys & Girls Clubs of Fresno County for one month. Because the janitor had been injured, respondent did janitorial work. He cleaned inside and outside and disposed of trash. A January 15, 2009, letter from Joanne A. Calhoun, Volunteer Coordinator for the Boys & Girls Club, confirms that respondent provided 27 hours of janitorial services for the club. Ms. Calhoun wrote that respondent was a responsible worker who put forth a good effort.

23. Respondent testified that his service to the Boys & Girls Clubs was simply voluntary. Ms. Calhoun's letter and respondent's further testimony, however, suggest that it actually was in satisfaction of a condition of probation requiring community service. Ms. Calhoun began her letter with, "Selso has completed a total of 27 hours of community service . . . ." Respondent testified that, when he worked at the Boys and Girls Clubs, he did not have to take on the janitorial work. He said, "I could have done the easy thing of talking to the kids, but the janitor had gotten hurt, and they needed a janitor. So I did janitorial work." Ms. Calhoun's statement and respondent's statement suggest that respondent was fulfilling a requirement to do community service. Respondent, however, insists that his service to the Boys & Girls Clubs was purely voluntary and not in satisfaction of a condition of probation.

24. Respondent testified that he has volunteered at the Fresno Rescue Mission for four years. He said he has donated turkeys and served food. A January 16, 2009, letter from Dewayne Martin, Director of Foodservice for the Fresno Rescue Mission, confirms that

respondent has done those things for the past four years during the Thanksgiving and Christmas seasons.

25. Respondent testified that he volunteers at the Rescue Mission approximately eight hours a month. Mr. Martin's letter raises an inference that respondent has volunteered there only during the Thanksgiving and Christmas seasons. Respondent insists, however, that he has volunteered there approximately eight hours a month for four years and that he continues to do that.

26. In October of 2007, the Department of Motor Vehicles reinstated respondent's driver's license.

27. In satisfaction of one of the conditions of the probation granted in connection with respondent's September 21, 2001, conviction, respondent completed a driving-under-the-influence program provided by Kings View Community Services. The program was a 13-week first offender program. Respondent enrolled in that program on July 17, 2007, and completed it on October 24, 2007.

#### *LETTERS OF RECOMMENDATION*

28. Kris Klair, a real estate broker and owner of Exit Realty Consultants in Turlock, signed respondent's application for licensure. He signed as a sponsoring broker. Mr. Klair intends to employ respondent if respondent obtains a license. Mr. Klair also wrote a letter of recommendation. The letter is undated, but refers to "today" and "the time of the hearing" in such a way as to indicate that it was written on the day of the hearing in this matter. He wrote that he has known respondent for two years. Mr. Klair said he has faith in respondent in spite of the fact that respondent "has had some mess ups in the past . . . ."

29. Sergio Esquiviz wrote an undated letter in which he said he has known respondent for nearly a year. Respondent testified that he had watched Mr. Esquiviz do real estate deals, and Mr. Esquiviz wrote that respondent "has shadowed my business methods . . . ." It would appear that Mr. Esquiviz is a licensee. He is aware that respondent "has a driving infraction . . . ." Mr. Esquiviz wrote that respondent is responsible, motivated, and persistent.

30. Isaac R. Fonseca, a licensed appraiser with an office in Fresno, wrote an undated letter. He wrote that respondent has been a family friend for many years. Mr. Fonseca wrote that, subsequent to respondent's engaging in legal infractions, he has matured and has the potential to become a prominent realtor.

31. Graciela Alderette, a department manager for the Internal Revenue Service, wrote an undated letter in which she said she has known respondent for 16 years. She wrote that respondent has often visited in her home and has always been well mannered and respectful. She said that she realizes that respondent "has had an infraction" but that she would not hesitate to hire him.

32. Aaron Alderette, a financial services officer with Union Bank of California, wrote a letter dated January 13, 2009, in which he said that he has known respondent for 14 years. Mr. Alderette noted respondent's past infractions but said he believes respondent can represent clients honestly and ethically. Mr. Alderette said he would be happy to have respondent represent him in real estate transactions and would feel confident in recommending respondent to others.

33. Jeff Ames, owner of Sunnyside Auto Repair, Inc, wrote a letter dated January 13, 2009, in which he said he has known respondent for 20 years. Mr. Ames wrote that respondent is industrious and honest and a person of integrity. Mr. Ames would feel comfortable having respondent represent him in real estate transactions.

34. Elsie Gomez, a realtor with Realty Investment Group in Fresno, wrote a letter dated January 16, 2009. She wrote that she has known respondent for 10 years and that he should be given a second chance. She described him as generous, independent, able, and honest.

## LEGAL CONCLUSIONS

### *RESPONDENT'S MISDEMEANOR CONVICTIONS ARE GROUNDS FOR DENIAL OF HIS APPLICATION ONLY IF THE CRIMES OF WHICH HE WAS CONVICTED ARE CRIMES THAT INVOLVE MORAL TURPITUDE.*

1. Business and Professions Code section 10177<sup>2</sup> is part of the act that concerns the regulation of real estate licensees. Section 10177, subdivision (b), provides that the commissioner may revoke a real estate license or deny an application for licensure if the licensee or applicant has been found guilty of a felony or a crime involving moral turpitude.

2. Sections 480 and 490 are part of division 1.5 of the Business and Professions Code, which applies to almost all of the boards and commissions that operate under that code, including the Department of Real Estate. Section 480, subdivision (a), provides, in part, that a board may deny an application for licensure if the applicant has been convicted of a crime but "only if the crime . . . is substantially related to the qualifications, functions, or duties of the business or profession for which application is made." Section 490 provides that the commissioner may revoke a real estate license if 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."

3. Thus, pursuant to section 10177, a misdemeanor conviction is grounds for revocation or denial only if the crime is one that involves moral turpitude. Neither section 480 nor section 490, however, mentions moral turpitude.

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<sup>2</sup> All statutory references are to the Business and Professions Code unless otherwise specified.

4. In *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, the court of appeal dealt with the question of whether section 490 provides additional and independent authority to revoke licenses. The court held it did not. The court held that section 490 was only a limitation on the authority granted in the various licensing acts in the code. Section 490 merely limits those acts by requiring a nexus between a crime and the qualifications, functions, or duties of the business or profession for which a license has been issued. Thus, the department could not use section 490 to avoid the moral turpitude provision in section 10177, subdivision (b). That is, the department could revoke a license because of a misdemeanor conviction only if the department proved that the crime was one that involved moral turpitude.

5. Mr. Petropoulos had been convicted of a misdemeanor that did not involve moral turpitude. The court held that that conviction was not grounds to revoke his license because it did not satisfy the moral turpitude requirement of section 10177.

6. As noted, *Petropoulos* concerned section 490, which deals with revocation of a license. The present case concerns denial of an application, which is addressed in section 480. The history of those two sections is similar, and the rationale in *Petropoulos* is equally applicable to section 480. Moreover, complainant has not contended that *Petropoulos* does not apply to cases concerning the denial of an application. Rather, complainant alleges that each of respondent's convictions was for a crime involving moral turpitude. It is held that the rule of the *Petropoulos* case applies to cases concerning the denial of an application for licensure as well as to cases concerning revocation of a license.

7. After 1974, the legislature amended most of the licensing acts contained in the Business and Professions Code to eliminate moral turpitude provisions. In 2007, which was after the decision in *Petropoulos*, the legislature amended section 10177, subdivision (b), to eliminate the moral turpitude language. That amendment became effective on January 1, 2008. Thus, as to applications for real estate licenses filed after that date, a misdemeanor conviction is a ground for denial whether or not the crime involved moral turpitude.

8. The legislature did not provide that the amendment should apply retrospectively. Thus, the rule of the *Petropoulos* case still applies to applications filed prior to January 1, 2008.

9. Respondent filed his application in 2007. All of his convictions are misdemeanor convictions. They can serve as grounds for denying his application only if the crimes involved moral turpitude.



## MORAL TURPITUDE

10. In *Rice v. Alcoholic Beverage Control Appeals Board*,<sup>3</sup> the court of appeal observed that moral turpitude is an elusive concept but that certain crimes may establish moral turpitude as a matter of law.

The elusive concept of "moral turpitude" has long been the subject of judicial scrutiny; our courts have grappled with the amorphous term in a variety of factual contexts largely involving [license] disciplinary proceedings. [Citations.]

Notwithstanding its frequency of use as a legislatively imposed standard of conduct for purposes of discipline, the concept by nature defies any attempt at a uniform and precise definition. For nearly 40 years our highest court has defined moral turpitude as "an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man" [citation] or "everything done contrary to justice, honesty, modesty or good morals." [Citations.] Yet it is innately a relative concept depending upon both contemporary moral values and the degree of its inimical quality [citation] whose purpose as a legislated standard is not punishment but protection of the public. [Citations.]

While not every public offense may involve conduct constituting moral turpitude without a showing of moral unfitness to pursue a licensed activity [citation] conviction of certain types of crimes may establish moral turpitude as a matter of law. [Citation.] Thus, moral turpitude is inherent in crimes involving fraudulent intent, intentional dishonesty for purposes of personal gain or other corrupt purpose [citation] but not in other crimes which neither intrinsically reflect similar inimical factors nor demonstrate a level of ethical transgression so as to render the actor unfit or unsuitable to serve the interests of the public in the licensed activity. [Citations.]<sup>4</sup>

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<sup>3</sup> *Rice v. Alcoholic Beverage Control Appeals Board* (1979) 89 Cal.App.3d 30.

<sup>4</sup> *Id.* at pp. 36-37.

11. In *People v. Castro*<sup>5</sup> the Supreme Court of California dealt with the concept of moral turpitude in a context other than a license disciplinary proceeding. Part of Proposition 8, which was passed in 1983 as the so-called Victims' Bill of Rights, required courts to permit the use of prior felony convictions "without limitation" for impeachment in criminal proceedings. That is, it created an expanded felony impeachment rule. In *Castro* the court determined that only prior felonies that involved some moral depravity were relevant in assessing the veracity of a witness. The court held that, unless Proposition 8 were limited to account for that, it would run afoul of the fourteenth amendment to the United States Constitution. Thus, the court held that the expanded felony impeachment rule could be applied only with regard to convictions that had involved moral turpitude. Then the court addressed the matter of the prior felony of which the defendant, Castro, had been convicted, simple possession of heroin – simple possession, that is, as opposed to possession for sale. And the court held that simple possession of heroin does not necessarily involve moral turpitude. The court distinguished possession for sale and said that possession for sale does involve moral turpitude because it involves the intent to corrupt others.<sup>6</sup>

12. Courts have addressed the distinction between simple possession and possession for sale in the context of license discipline, also. In *Von Durjais v. Board of Trustees*,<sup>7</sup> the court held that a finding of possession of marijuana or peyote – without more – does not constitute immoral conduct as a matter of law. The court said:

It is now well established that whether an offense relating to possession of prohibited substances as here involved constitutes immoral conduct presents a *factual* issue to be determined in light of all of the surrounding facts and circumstances. [Citations.] Not only was no such finding made, but the Commission expressly determined that the evidence failed to establish the charge of immoral conduct. The trial court's reasoning equating [a] . . . finding of unlawful possession as immoral conduct per se is unsound and must be rejected.<sup>8</sup>

13. With regard to certain professional licenses, the legislature has made the illegal use of drugs a matter of unprofessional conduct and grounds for imposing discipline. That, however, does not change the fact that possession or use is not necessarily immoral. Without something more, they do not constitute moral turpitude.

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<sup>5</sup> *People v. Castro* (1985) 38 Cal.3d 301.

<sup>6</sup> *Id.* at pp. 313-317.

<sup>7</sup> *Von Durjais v. Board of Trustees* (1978) 83 Cal.App.3d 681.

<sup>8</sup> *Id.* at p. 688.

14. In *In re Lesansky*<sup>9</sup> the Supreme Court of California dealt with attorney misconduct. The Court emphasized that criminal conduct involves moral turpitude in three circumstances – when it shows a deficiency in a character trait necessary for the practice of law, when it involves such a serious breach of duty that it would be likely to undermine public confidence in the legal profession, and when it involves such a flagrant disrespect for the law that it would be likely to undermine public confidence in the legal profession. The Court said:

In reaffirming that attorneys may be disbarred for criminal acts committed in a nonprofessional setting, we do not hold that such discipline may be imposed for any act evidencing a moral lapse or infirmity, however slight. Attorney discipline is imposed when necessary “to protect the public, to promote confidence in the legal system, and to maintain high professional standards” [citation] and the term “moral turpitude” is defined by reference to this purpose. As we have in the past, we acknowledge here that the term “cannot be defined with precision.” [Citation.] Nevertheless, we can provide this guidance: Criminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession. [Citations.]<sup>10</sup>

15. The same can be said regarding other licensed businesses and professions. Certain crimes always evidence a lack of some trait that is necessary for engaging in a particular licensed activity. But other criminal conduct, particularly if it is repeated, can be likely to undermine public confidence in all of those who are licensed to engage in a particular business or profession.

*ARE THE CRIMES OF WHICH RESPONDENT WAS CONVICTED CRIMES THAT INVOLVE MORAL TURPITUDE?*

16. If, after the first three or four convictions, respondent had had no further convictions, those earliest convictions would not have involved moral turpitude. But by the time of the incident on July 31, 2004, respondent's history of repeated violations demonstrates such a flagrant disrespect for the law that licensing him to practice real estate

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<sup>9</sup> *In re Lesansky* (2001) 25 Cal.4th 11.

<sup>10</sup> *Id.* at p. 16.

would be likely to undermine public confidence in all real estate licensees. After July 31, 2004, he repeated the same violation on December 20, 2004. Moreover, from June of 2001 to March of 2007, respondent violated an order to appear in response to a citation issued on May 30, 2001. When he did appear, that citation led to the conviction of April 6, 2007.

17. It is determined that, because of respondent's history of repeated violations, his convictions involved moral turpitude. Issuing a license to respondent would be likely to undermine public confidence in all real estate licensees.

*ARE THE CRIMES OF WHICH RESPONDENT WAS CONVICTED SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF THE LICENSED ACTIVITY?*

18. California Code of Regulations, title 10, section 2910, subdivision (a), provides, in part:

When considering whether a license should be denied . . . on the basis of the conviction of a crime . . . the crime . . . shall be deemed to be substantially related to the qualifications, functions, or duties of a licensee of the Department [of Real Estate] . . . if it involves:

[¶] . . . [¶]

(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

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

19. It is determined that all of respondent's convictions are substantially related to the qualifications, functions, or duties of a licensee of the department.

*GROUND FOR DENYING RESPONDENT'S APPLICATION*

20. By reason of the matters set forth in Findings 3, through 15, it is determined that respondent has been convicted of crimes involving moral turpitude that are substantially related to the qualifications, functions, or duties of the licensed activity. Thus, pursuant to section 480, subdivision (a), and section 10177, subdivision (b), there are grounds to deny respondent's application.

*REHABILITATION*

21. Respondent is to be congratulated for the progress he has made toward rehabilitation.

22. He has made that progress, however, while on probation. There is no evidence that respondent has engaged in any wrongful conduct since December 20, 2004. But at that time, he was still on probation for the September 21, 2001, conviction. It was not until October 24, 2007, that he satisfied the condition requiring him to complete a first offender program. He then was on multiple probations in connection with the two convictions in 2005 and the 2007 conviction.

23. Thus, respondent has progressed toward rehabilitation while on probation and with the understanding that a failure to satisfy the conditions of his probations would subject him to the risk of being incarcerated. Moreover, the probation granted in connection with the April 6, 2007, conviction is not scheduled to terminate until April of 2010. The case of *In re Gossage* (2000) 23 Cal.4th 1080, concerned an application to the State Bar to be licensed as an attorney. At page 1099, the court said:

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 the bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole.

24. There has not been enough experience with respondent's rehabilitation to justify a conclusion that it would be in the public interest for him to hold a real estate salesperson license.

25. The decision to deny respondent's application should be upheld.

#### ORDER

The appeal of Selso Salas Leon is denied.

DATED: February 5, 2009



ROBERT WALKER  
Administrative Law Judge  
Office of Administrative Hearings

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FILED

OCT 17 2008

DEPARTMENT OF REAL ESTATE

By A. Zirin

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8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA  
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12 In the Matter of the Application of  
13 SELSO SALAS LEON,  
14 Respondent.

No. H-2304 FRESNO  
STATEMENT OF ISSUES

15 The Complainant, John W. Sweeney, a Deputy Real Estate Commissioner of the  
16 State of California, for Statement of Issues against SELSO SALAS LEON also known as Leon  
17 Seldo and Selso Shlas Leon (herein "Respondent"), alleges as follows:

18 I

19 Complainant makes this Statement of Issues in his official capacity.

20 II

21 On or about September 26, 2007, Respondent made application to the  
22 Department of Real Estate of the State of California (herein "the Department") for a real estate  
23 salesperson license with the knowledge and understanding that, pursuant to the provisions of  
24 Section 10153.3 of the Business and Professions Code, any license issued as a result of said  
25 application would be subject to the conditions of Section 10153.4 of the California Business and  
26 Professions Code (herein "the Code").

27 ///

1 III

2 On or about September 9, 1998, in the Superior Court of California, County of  
3 Fresno, Case Number M9709792-4, Respondent was convicted of the crime of Possession under  
4 1 oz. of Marijuana in violation of Health and Safety Code Section 11357(b), a misdemeanor  
5 involving moral turpitude that bears a substantial relationship under Section 2910, Title 10,  
6 California Code of Regulations (herein "Regulations"), to the qualifications, functions or duties  
7 of a real estate licensee.

8 IV

9 On or about November 13, 1998, in the Superior Court of California, County of  
10 Fresno, Case Number T9890146-6, Respondent was convicted of the crime of Driving without a  
11 License in violation of Vehicle Code Section 14601.1(a), a misdemeanor involving moral  
12 turpitude that bears a substantial relationship under Section 2910, Title 10 of the Regulations, to  
13 the qualifications, functions or duties of a real estate licensee.

14 V

15 On or about September 21, 2001, in the Superior Court of California, County of  
16 Fresno, Case Number T01904629-3, Respondent was convicted of the crime of Driving with  
17 Blood Alcohol over .08% in violation of Vehicle Code Section 23152(b), a misdemeanor  
18 involving moral turpitude that bears a substantial relationship under Section 2910, Title 10 of  
19 the Regulations, to the qualifications, functions or duties of a real estate licensee.

20 VI

21 On or about December 11, 2001, in the Superior Court of California, County of  
22 Fresno, Case Number T01906721-6, Respondent was convicted of the crime of Wet Reckless in  
23 violation of Vehicle Code Section 23103(a), a misdemeanor involving moral turpitude that  
24 bears a substantial relationship under Section 2910, Title 10 of the Regulations, to the  
25 qualifications, functions or duties of a real estate licensee.

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1 VII

2 On or about January 19, 2005, in the Superior Court of California, County of  
3 Fresno, Case Number T04906728-1, Respondent was convicted of the crime of Driving without  
4 a License in violation of Vehicle Code Section 14601.1(a), a misdemeanor involving moral  
5 turpitude that bears a substantial relationship under Section 2910, Title 10 of the Regulations, to  
6 the qualifications, functions or duties of a real estate licensee.

7 VIII

8 On or about February 3, 2005, in the Superior Court of California, County of  
9 Santa Clara, Case Number CC476443, Respondent was convicted of the crime of Driving  
10 without a License in violation of Vehicle Code Section 14601.1(a), a misdemeanor involving  
11 moral turpitude that bears a substantial relationship under Section 2910, Title 10 of the  
12 Regulations, to the qualifications, functions or duties of a real estate licensee.

13 IX

14 On or about April 6, 2007, in the Superior Court of California, County of Kern,  
15 Case Number LM064945A, Respondent was convicted of the crime of Driving without a  
16 License in violation of Vehicle Code Section 14601.1(a), and of the crime of Failure to Appear  
17 in violation of Vehicle Code Section 40508(a), each crime a misdemeanor involving moral  
18 turpitude that bears a substantial relationship under Section 2910, Title 10 of the Regulations, to  
19 the qualifications, functions or duties of a real estate licensee.

20 X

21 Respondent's criminal convictions, as described in Paragraphs III through IX,  
22 above, constitute cause for denial of Respondent's application for a real estate license under  
23 Sections 480(a) and 10177(b) of the Code.

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

5  
6   
7 JOHN W. SWEENEY  
8 Deputy Real Estate Commissioner

8 Dated at Fresno, California,  
9 this 15<sup>th</sup> day of October, 2008.