

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUN 09 2004
DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Application of)
JUSTIN MANUEL BRINGAS,)
Respondent.)

NO. H-2939 SD *Shelly Ely*
OAH No. L2004040224

DECISION

The Proposed Decision dated May 19, 2004, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy 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 JUNE 29, 2004.

IT IS SO ORDERED June 1, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

JUSTIN MANUEL BRINGAS,

Applicant/Respondent.

Case No. H-2939-SD

OAH No. L2004040224

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on May 4, 2004, in San Diego, California.

Michael B. Rich, Counsel, represented Complainant J. Chris Graves, a Deputy Real Estate Commissioner, Department of Real Estate, State of California.

Edgardo Gonzalez, Attorney at Law, represented Applicant/Respondent Justin Manuel Bringas, who was present throughout the administrative hearing.

The matter was submitted on May 4, 2004.

FACTUAL FINDINGS

Jurisdictional Matters

1. On November 13, 2003, J. Chris Graves, a Deputy Real Estate Commissioner, Department of Real Estate (the Department), State of California, signed the Statement of Issues in his official capacity.

The Statement of Issues and other required jurisdictional documents were served on Applicant/Respondent Justin Manuel Bringas (Bringas or Respondent).

Bringas timely filed a Notice of Defense on Application.

On May 4, 2004, the record in the hearing was opened. Jurisdictional documents were presented. An unopposed motion to amend the Statement of Issues was granted. Sworn testimony and documentary evidence was received. Closing arguments were given, the record was closed and the matter was submitted.

Respondent's Application for Licensure

2. On July 17, 2002, Bringas applied to the Department for the issuance of a real estate salesperson license.

3. The application contained the following statements:

"Carefully read and provide detailed answers to questions #24-26. You must provide a *yes* or *no* response to all questions.

'Convicted' as used in Question 25 includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere, or a forfeiture of bail in a municipal, superior or federal court. All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code." (Original emphasis.)

4. Question 25 asked:

"HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE."

5. Bringas checked the "YES" box adjacent to that question.

6. In response to Question 27, which asked for detailed explanations related to any violation of law Bringas essentially set forth the following information:

- He was arrested by the San Diego County Police Department on an unspecified date and was convicted of driving under the influence in the San Diego Superior Court in San Diego, California, on an unspecified date and placed on three years probation.
- He was arrested by the San Diego State Police Department on an unspecified date and was convicted of driving under the influence in the San Diego Court in Vista, California, on July 29, 1999, and placed on five years probation.

7. Bringas did not disclose any information related to a February 2000 conviction related to driving on a suspended license.

8. Bringas signed the application under penalty of perjury on March 26, 2002.

The Confidential – Interview Information Statement

9. In a Confidential - Interview Information Statement submitted to the Department, which was dated April 22, 2003, Bringas provided additional information related to his convictions. Once again he admitted he suffered two driving under the influence convictions, the first in 1997 and the second in 1999.

With regard to the 1997 conviction, Bringas wrote: "I traveled to Mexico during spring break. I drank and then I drove. I swerved, was pulled over, and then arrested. I was the only one involved." Bringas stated his rehabilitation efforts were "Occupational Health Services."

With regard to the 1997 conviction, Bringas wrote: "I had a couple of drinks, was pulled over for a minor traffic ticket and was arrested." Bringas also stated, "I have now been sober. I choose not to drink."

With regard to his February 2000 conviction of driving on a suspended license, Bringas wrote: "I went to court and drove off the premises with a suspended license heading to work." Bringas stated he did not think he had to disclose the conviction when he completed his application for a real estate salesperson license because the conviction had been reduced.

Bringas' Convictions

10. On July 3, 1997, Bringas was convicted on his plea of guilty of violating Vehicle Code section 23152(a) (Operating a Vehicle under the Influence of Alcohol), a misdemeanor, in the Municipal Court of California, County of San Diego, San Diego Judicial District, in Case No. T181308 entitled *The People of the State of California, Plaintiff, v. Justin Bringas, Defendant*.

Imposition of sentence was suspended and Bringas was placed on five years summary probation. Among other matters, Bringas was ordered not to drive without a valid license, pay fines and fees of approximately \$1,300 (with \$100 credit given for time served towards payment of the fine), not drive with any alcohol in his system, complete a first conviction program and attend and complete a MADD program.

On February 2, 2000, Bringas' probation was summarily revoked for driving on a suspended license.

Probation was reinstated and Bringas ultimately completed probation.

11. On July 29, 1999, Bringas was convicted on his plea of guilty of violating Vehicle Code section 23152(a) (Operating a Vehicle under the Influence of Alcohol with a Prior Conviction), a misdemeanor, in the Municipal Court of California, County of San

Diego, San Diego Judicial District, in Case No. T209003 entitled *The People of the State of California, Plaintiff, v. Justin Bringas, Defendant.*

Imposition of sentence was suspended and Bringas was placed on five years formal probation. Among other matters, Bringas was ordered to serve 48 hours in custody, provide ten days of public service, not to drive without a valid license, pay fines and fees of approximately \$1,300, not drive with any alcohol in his system, attend and complete an SB 38 program, have an interlock device installed in any car, and attend and complete a MADD program.

On February 2, 2000, Bringas' probation was summarily revoked for driving on a suspended license.

Probation was reinstated and Bringas ultimately completed probation.

12. On February 2, 2000, Bringas was convicted on his plea of guilty of violating Vehicle Code section 14601.2(a) (Operating a Vehicle with Driver License Suspended for Prior DUI Conviction), a misdemeanor under Vehicle Code section 40000.11, in the Superior Court of California, County of San Diego, North County Judicial District, in Case No. CN108348-entitled *The People of the State of California, Plaintiff, v. Justin Manual Bringas, Defendant.*

Imposition of sentence was suspended and Bringas was placed on three years probation to the court. Among other matters, Bringas was ordered to pay fines and fees of approximately \$835, to not drive without a valid driver license and to totally abstain from the use of alcohol. The sentencing order specifically stated "charge to be reduced to Vehicle Code section 12500(a) if defendant provides proof of driver's license to court by 7-5-00."

On September 25, 2000, the charge was reduced to a violation of Vehicle Code section 12500(a) (Driving Without a License), an infraction under Penal Code section 19.8.

Circumstances of the Offenses

13. On July 3, 1997, Bringas was operating a motor vehicle after drinking alcoholic beverages in Mexico while on vacation. He was arrested and was later convicted on his guilty plea. Bringas was 18 years old at the time.

14. On May 2, 1999, Bringas and a friend were drinking alcoholic beverages in the area of San Diego State College. Bringas' friend was quite intoxicated, so Bringas decided to drive. Bringas was arrested and was later convicted on his guilty plea. Bringas was 20 years old at the time.

15. Bringas sold his car and did not get an interlock device. On December 22, 1999, Bringas drove his mother's car to the courthouse to take care of some business. He was told not to drive by the court. He telephoned his mother and she told him to move the car from the courthouse. Bringas went outside and began to move the car. Court personnel

observed him behind the wheel of the car and reported it to the judge. Bringas was cited for driving a vehicle when his license was suspended for driving under the influence.

Bringas told the court he had a valid driver's license. Before entering his plea, the court told Bringas that the driving a vehicle when his license was suspended for a driving under the influence conviction would be reduced to a simple driving without a valid license conviction if he established that he had a valid driver license. A couple of months after entering his plea, Bringas established that he had a valid license and the charges were reduced.

Failure to Disclose the February 2000 Conviction

16. Bringas established that he reasonably believed that his February 2000 conviction was for an infraction, not a misdemeanor, and that he did not have to list it on his application for a salesperson license.

Bringas' Testimony and Other Evidence

17. Bringas was born on October 4, 1977, in San Diego County. He grew up in North San Diego County, graduating from San Pasqual High School in 1997. After graduating from high school, Bringas attended Palomar Community College for two years and Mira Costa Community College for one year. He does not have a college degree.

Bringas was employed at Costco and Rancho Santa Fe National Bank from 1999 through 2001. He briefly worked at Genisys Financial Corporation as a telemarketer, and then became a loan officer. Bringas was employed by Genisys for approximately two years.

Bringas began working for Windsor Capital Mortgage in February 2003 as a loan processor. He continues this employment.

18. According to his mother, Cheryl Bringas (Cheryl), Bringas associated with a somewhat rowdy group of individuals in high school and college. However, Cheryl testified that since Bringas' second DUI conviction, her son stopped drinking alcoholic beverages and settled down. Bringas married, has a daughter and is a good family man. Her son established an entirely new circle of friends, all of whom are professionally employed and all of whom have families. Bringas and his wife attend church regularly.

Cheryl believes her son has changed dramatically since he was a teenager and has become an honest, hardworking individual.

19. Christina Bringas (Christina) married Respondent in October 2003. She is employed by Lawyer's Title Escrow Company. Christina and Respondent have a daughter who is about four months old. Christina has known Respondent for several years and she has never seen him consume alcoholic beverages.

Christina and Bringas work full-time, take care of their daughter, attend Calvin Christian Church in Escondido and visit with family and friends on the weekends. According to Christina, Respondent is a "wonderful husband and father" and an honest individual.

20. Donald Verdugo (Verdugo) is a licensed mortgage broker who has known Bringas since late 1999. Verdugo first met Bringas at Genisys Financial Corporation, where both were working in the loan department. Verdugo became fast friends with Bringas. Verdugo has never seen Bringas consume alcoholic beverages.

After Verdugo began working for Windsor Capital Mortgage, he arranged for Bringas to become employed at Windsor as his personal assistant and as a loan processor. Verdugo did so because Bringas was and is hardworking, dependable and honest. Verdugo described Bringas as "great . . . wonderful . . . of the utmost integrity."

Verdugo confirmed that Bringas had always disclosed his convictions when making application for employment.

21. Bringas testified about his education and background. He expressed sincere remorse for his two DUI convictions.

Bringas said he was "100% different now" than he was when he was attending college. His change was brought about by attending the 18-month multiple offender program at Occupational Health Services. The Occupational Health Services program required Bringas to attend numerous educational classes, even more group counseling sessions, many face-to-face meetings and at least 70 AA meetings.

Bringas believed he had a problem with alcohol when he was younger and made very bad choices in deciding to drive after drinking alcoholic beverages, but he does not believe himself to be an "alcoholic" because he never became physically dependent upon alcohol to function. Bringas no longer consumes alcoholic beverages because of the danger it might pose to his well-being and to that of his family.

22. Bringas has worked in the loan industry since 1999. He would like to have a license to further his career.

23. Bringas' credible testimony established he failed to list his February 2000 conviction as a result of an honest mistake of fact and the failure to disclose the conviction was not the result of any deceit or attempt to defraud the Department.

Evaluation

24. Bringas' two DUI convictions (both of which occurred before he was 21 years old) established that Bringas had a problem with alcohol in the mid and late 1990s. Since then, Bringas wisely quit drinking alcoholic beverages. His lack of arrests since then for any

alcohol-related offense strongly suggests that he has become abstinent and no longer consumes alcoholic beverages.

25. Many persons close to Bringas testified about his change and growth since he was a teenager. Bringas appears to have become a responsible adult.

26. Bringas provided a reasonable explanation for his failure to disclose his February 2000 conviction.

27. On this record it cannot be concluded that it is in the public interest to grant Bringas an unrestricted real estate salesperson license; however, enough time has passed since his last DUI conviction for Bringas' to provide impressive evidence of rehabilitation to support the issuance of a restricted real estate license. Conditions attached to the license will require Bringas to disclose his convictions to all potential employers and will require Bringas' employing broker to exercise close supervision. Bringas will be required to immediately notify the Department if he is arrested. These conditions will provide adequate safeguards to protect the public.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that he or she is qualified to hold the license. The standard of proof is a preponderance of the evidence. See, *California Administrative Hearing Practice* (Second Edition), "The Hearing Process," sections 7.51-7.53, pp. 352-354, and the cases cited therein.

Applicable Statutes

2. Business and Professions Code section 480 provides in pertinent part:

"(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 . . .

...

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 . . .

...

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.”

3. Business and Professions Code Section 10177 provides in pertinent part:

“The commissioner . . . may deny the issuance of a license to an applicant, who has done any of the following . . .

(a) Procured, or attempted to procure, a real estate license . . . for himself . . . by making any material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) Entered a plea of guilty . . . to . . . a felony or a crime involving moral turpitude . . .”

Moral Turpitude

4. *People v. Castro* (1985) 38 Cal. 3d 301 divided crimes of moral turpitude into two groups. The first group included crimes in which dishonesty was a necessary element (i.e., fraud, perjury, etc.). The second group included crimes that indicated a “general readiness to do evil” from which a readiness to lie could be inferred.

5. Driving under the influence is not a crime necessarily involving moral turpitude. See, *In re Carr* (1988) 46 Cal. 3d 1089 and *Ostrow v. Municipal Court* (1983) 149 Cal.App.3d 668, 675-676.

However, a conviction of Vehicle Code section 23175 (Felony DUI with Three Prior Convictions within Seven Years) is a recidivist type crime involving an extremely dangerous activity in which the accused is presumptively aware of the life-threatening nature of the activity and the grave risks involved. A conviction of Vehicle Code section 23175 is a crime involving moral turpitude. See, *People v. Forster* (1994) 29 Cal.App.4th 1746, 1757.

The Need to Establish a Substantial Relationship

6. The Department’s obligation to provide a substantial relationship between a conviction(s) of a crime(s) and an applicant’s fitness to hold a real estate license was commented upon in *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402, where the court wrote:

“Conviction alone will not support a denial of a license unless the crime substantially relates to the qualifications, functions, or duties of the business or profession in question.”

and

“Honesty and truthfulness are two qualities deemed by the Legislature to bear on one’s fitness and qualification to be a real estate licensee. If appellant’s offenses reflect unfavorably on his honesty, it may be said he lacks the necessary qualifications to become a real estate salesperson. [Citation.] The Legislature intended to ensure that real estate brokers and salespersons will be honest, truthful and worthy of the fiduciary responsibilities which they will bear. [Citation.]”

7. Title 10, California Code of Regulations, section 2910 sets forth the Department’s regulatory “Criteria of Substantial Relationship.” Bringas’ two driving under the influence convictions were substantially related under those regulatory criteria.¹

Failure to Disclose a Conviction

8. *Madrid v. Department of Real Estate* (1984) 152 Cal.App.3d 454 involved an applicant’s failure to disclose an out of state felony conviction of bingo fraud (later reduced to a misdemeanor) which occurred five years before the license application was filed with the Department. The appellate court in *Madrid* affirmed the Department of Real Estate’s revocation of the applicant’s license, concluding:

“[U]nlike *Jones*,² the conviction was neither minor nor remote in time . . . [and] unlike *DeRasmo*,³ the omission of the conviction from the license application here was found to be willful, satisfying the requirement of fraud, misrepresentation or deceit under Business and Professions Code section 10177, subdivision (a).”

Cause Does Not Exist to Refuse the Application Under Business and Professions Code sections 480(c) and 10117(a)

9. Cause does not exist to deny Bringas’ application for a real estate salesperson’s license under Business and Professions Code section 480(a) or under Business and Professions Code section 10177(b), based upon his failure to disclose his February 2000 conviction of driving with a license suspended because of a prior DUI conviction.

¹ Title 10, California Code of Regulations, section 2910 provides:

“(a) When considering whether a license should be denied . . . on the basis of the conviction of a crime . . . the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department . . . if 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 . . .”

² *Jones v. Maloney* (1951) 106 Cal.App.2d 80.

³ *DeRasmo v. Smith* (1971) 15 Cal.App.3d 601.

The February 2000 conviction did not necessarily involve moral turpitude. It was not established that the facts underlying the conviction involved moral turpitude or dishonesty. It was not established that the February 2000 conviction had a substantial, adverse relationship to the qualifications, functions or duties of a real estate salesperson. Bringas' failure to disclose the conviction was understandable because the offense was later reduced to an infraction, and infractions related to the operation of a motor vehicle were not required to be disclosed in the Department's application. Bringas did not knowingly make a false statement of a material fact required to be revealed in the application for his real estate salesperson's license and he did not attempt to procure a real estate license for himself by making any material misstatement.

This conclusion is based on Factual Findings 2-9, 12, 15, 16, 23 and 26 and on Legal Conclusions 1-3 and 8.

*Cause Exists to Refuse an Unrestricted License
Under Business and Professions Code sections 480(a)
But to Grant the Application to Issue a Conditional, Restricted License*

10. Cause exists to deny Bringas' application for an unrestricted real estate salesperson's license under Business and Professions Code section 480(a).

On July 3, 1997 and on July 29, 1999, Bringas was convicted of driving under the influence. These convictions are, by regulation, substantially and adversely related to the qualifications, functions or duties of a licensed real estate salesperson. However, Bringas established sufficient rehabilitation through his own credible testimony, through the testimony of his wife, through the testimony of his friends and by letters which supplemented that testimony to establish that he has rehabilitated himself to the extent that it is unlikely similar misconduct will reoccur, that he is of good moral character and that the public will be protected if he is issued a restricted license.

This conclusion is based on Factual Findings 2-27 and on Legal Conclusions 1-9.

ORDER

The application for an unrestricted Real Estate Salesperson License filed by Justin Manuel Bringas (Respondent) with the Department of Real Estate is denied. However, Respondent shall be eligible to receive a restricted real estate salesperson license which shall be subject under the following terms and conditions:

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

(a) The conviction of Respondent (including a plea of nolo contendere) of any 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 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 Respondent's date of arrest, the crime for which Respondent was arrested, the name and address of the arresting law enforcement authority and the name and address of any court in which Respondent is scheduled to appear as a result of the arrest. Respondent's failure timely file written notice shall constitute a violation of probation and shall be grounds to revoke the restricted license.

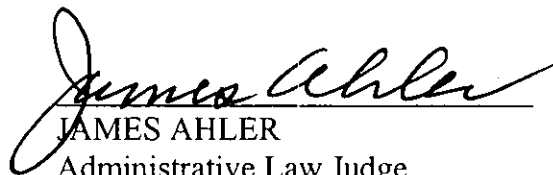
3. With any application for license and with all applications for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the conditional, 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 Respondent's performance of acts for which a real estate license is required.

4. 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 two (2) years have elapsed from the date of issuance of the restricted license to Respondent.

DATED: May 19, 2004.


JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings

FILED
MAR 24 2004

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

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

By Shelly [Signature]

JUSTIN MANUEL BRINGAS

}
}

Case No. H-2939 SD

OAH No.

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1350 FRONT STREET, ROOM 6022, SAN DIEGO, CALIFORNIA 92101** on **TUESDAY--MAY 4, 2004**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

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

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: MARCH 24, 2004

By Michael B. Rich
MICHAEL B. RICH, Counsel (J.E.)

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 DEPARTMENT OF REAL ESTATE
4 P. O. Box 187000
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6
7 Telephone: (916) 227-0789

FILED
JAN 17 2004

DEPARTMENT OF REAL ESTATE

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

11 * * *

12 In the Matter of the Application of)
13 JUSTIN MANUEL BRINGAS,) NO. H- 2939 SD
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
17 Commissioner of the State of California, for Statement of Issues
18 against JUSTIN MANUEL BRINGAS, (hereinafter "Respondent"), is
19 informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about January 16, 2003.

24 II

25 Complainant, J. CHRIS GRAVES, a Deputy Real Estate
26 Commissioner of the State of California, makes this Statement of
27 Issues in his official capacity and not otherwise.

1 III

2 On or about July 3, 1997, in the Municipal Court of
3 the State of California, County of San Diego, State of
4 California, Respondent was convicted of violating Section
5 23152(a) of the California Vehicle Code (Unlawfully driving a
6 vehicle while under the influence of alcohol), a crime involving
7 moral turpitude which bears a substantial relationship under
8 Section 2910, Title 10, California Code of Regulations, to
9 the qualifications, functions, or duties of a real estate
10 licensee.

11 IV

12 On or about July 29, 1999, in the Superior Court,
13 County of San Diego, State of California, was convicted of
14 violating California Vehicle Code Sections 23152(a) (Unlawfully
15 driving a vehicle while under the influence of alcohol or drugs)
16 and 23152(b) (Driving under the influence while having a blood
17 alcohol level of .08% or more), a crime involving moral turpitude
18 which bears a substantial relationship under Section 2910,
19 Title 10, California Code of Regulations, to the qualifications,
20 functions, or duties of a real estate licensee.

21 V

22 On or about July 17, 2002, in the Superior Court of the
23 State of California, County of San Diego, State of California,
24 Respondent was convicted of violating Section 14601.2(a) of
25 the California Vehicle Code (Knowingly driving while license
26 suspended for driving under the influence), a crime involving
27 moral turpitude which bears a substantial relationship under

1 Section 2910, Title 10, California Code of Regulations, to
2 the qualifications, functions, or duties of a real estate
3 licensee.

4 VI

5 In responses to Questions 25 and 27 of the license
6 application, requiring Respondent to reveal the court conviction,
7 arresting agency, date of conviction, type of conviction, code
8 name and section number violated, disposition and case number,
9 for each conviction of any violation of law (other than for
10 convictions of drunk driving, reckless driving, and minor traffic
11 citations not constituting a misdemeanor or felony offense),
12 Respondent concealed and failed to reveal the conviction
13 described in Paragraph V, above.

14 VII

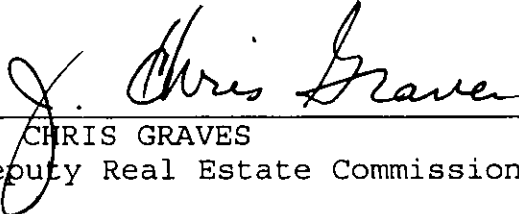
15 Respondent's failure to reveal in the Application the
16 conviction described in Paragraph V above, constitutes an attempt
17 to procure a real estate license by fraud, misrepresentation, or
18 deceit, or by making a material misstatement of fact in the
19 application, which failure is cause for denial of Respondent's
20 license application under Sections 480(c) and 10177(a) of the
21 California Business and Professions Code.

22 VIII

23 The crimes, of which Respondent was convicted, as
24 alleged in Paragraph III, IV, and V, individually and/or
25 collectively, constitute cause for denial of Respondent's
26 application for a real estate license under Sections 480(a)
27 and/or 10177(b) of the California Business and Professions Code.

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



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 13th day of November, 2003.