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FILED

JUN - 9 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of  
CUAUHTEMOC SANCHEZ,  
Respondent.

No. H-4484 SAC

ORDER DENYING REMOVAL OF RESTRICTIONS ON LICENSE

On June 16, 2006, a Decision was rendered herein denying Respondent's application for a real estate salesperson license but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on August 2, 2006 and Respondent has been licensed as such since that time.

On April 29, 2009, Respondent petitioned for removal of the restrictions on said real estate salesperson license.

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

///

1 I have considered Respondent's petition and the evidence and arguments in  
2 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has  
3 undergone sufficient rehabilitation to warrant the removal of the restrictions on Respondent's real  
4 estate salesperson license at this time.

5 The Department has developed criteria in Section 2911 of Title 10, California  
6 Code of Regulations ("Regulations") to assist in evaluating the rehabilitation of an applicant for  
7 issuance or reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(k) Correction of business practices resulting in injury to others or  
9 with the potential to cause such injury.

10 On April 1, 2008, Respondent collected a \$1,200 advance fee without first  
11 submitting the advance fee contract and solicitation materials for review by the Department.  
12 Respondent failed to deposit the advance fee in a trust fund account and failed to turn the  
13 advance fee over to the broker under whom Respondent was licensed. Consequently, on April 3,  
14 2009, in Case no. H-10634 SF, an Accusation was filed alleging violations by Respondent of  
15 Sections 10085, 10145(c), and 10146 of the Business & Professions Code ("Code") in  
16 conjunction with Sections 2970 and 2972 of the Regulations and Section 10177(d) of the Code.

17 In view of Respondent's failure to demonstrate compliance with Regulation  
18 2911(k) of the Criteria of Rehabilitation, I am not satisfied that Respondent's rehabilitation  
19 adequately supports issuance of an unrestricted license to Respondent.

20 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
21 restrictions on Respondent's real estate salesperson license is denied.

22 This Order shall become effective at 12 o'clock noon on **JUN 30 2009**

23 DATED: 6/3/09

24 JEFF DAVI  
25 Real Estate Commissioner

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

FILED

APR 30 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 CUAUHTEMOC SANCHEZ, ) NO. H-4484 SAC  
13 Respondent. )  
14 )

15 **ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE**

16 TO: CUAUHTEMOC SANCHEZ (herein "Respondent"):

17 On or about June 16, 2006, Respondent was issued a restricted real estate  
18 salesperson license, on the terms, conditions, and restrictions set forth in the Real Estate  
19 Commissioner's Decision dated June 16, 2006, in Case No. H-4484 SAC. That Decision granted  
20 the right to a restricted real estate salesperson license subject to the provisions of Section 10156.7  
21 of the Business and Professions Code (herein the "Code") and to enumerated additional terms,  
22 conditions, and restrictions imposed under authority of Section 10156.6 and 10156.7 of the Code.

23 One of the terms and conditions agreed to in said Decision was:

24 "The license shall not confer any property right in the privileges to be exercised  
25 including the right of renewal, and the Real Estate Commissioner may by  
26 appropriate order suspend the right to exercise any privileges granted under this  
27 restricted license in the event of:

- 1 a. The conviction of Respondent (including a plea of nolo contendere) to a  
2 crime which bears a substantial relationship to Respondent's fitness or  
3 capacity as a real estate licensee; or  
4 b. The receipt of evidence that Respondent has violated provisions of the  
5 California Real Estate Law, the Subdivided Lands Law, Regulations of the  
6 Real Estate Commissioner or conditions attached to this restricted license."

7 On April 3, 2009, in Case No. H-10634 SF, an Accusation by a Deputy Real  
8 Estate Commissioner of the State of California was filed charging Respondent with violations of  
9 Sections 10085, 10146, 10145(c), and 10146 of the Code, and Sections 2970, and 2972 of the  
10 California Code of Regulations, in conjunction with Section 10177(d) of the Code.

11 NOW, THEREFORE, IT IS ORDERED under authority of Section 10156.7 of the  
12 Code that the restricted real estate salesperson license heretofore issued to Respondent and the  
13 exercise of any privileges thereunder is hereby suspended pending final determination made after  
14 the hearing on the aforesaid Accusation.

15 IT IS FURTHER ORDERED that all license certificates and identification cards  
16 issued by Department which are in the possession of Respondent be immediately surrendered by  
17 personal delivery or by mailing in the enclosed, self-addressed envelope to:

18 DEPARTMENT OF REAL ESTATE  
19 ATTN: FLAG SECTION  
20 P. O. Box 187000  
21 Sacramento, CA 95818-7000

22 This Order shall be effective immediately.

23 DATED: 4.28, 2009.

24 JEFF DAVI  
25 Real Estate Commissioner  
26  
27

1 DEPARTMENT OF REAL ESTATE  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED  
JUN 16 2006

DEPARTMENT OF REAL ESTATE

By K. Contreras

7 DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 *In the Matter of the Application of*

10 CUAUHTEMOC SANCHEZ,

11 Respondent.

) NO. H-4484 SAC

) STIPULATION AND WAIVER

12 \_\_\_\_\_ )  
13 I, CUAUHTEMOC SANCHEZ, Respondent herein, do hereby affirm that I have applied to  
14 the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I  
15 have satisfied all of the statutory requirements for the issuance of the license, including the payment of the  
16 fee therefor.

17 I acknowledge that I have received and read the Statement of Issues and the Statement to  
18 Respondent filed by the Department of Real Estate on June 2, 2006, in connection with my application for a  
19 real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this  
20 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove  
21 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real  
22 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the  
23 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a  
24 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I  
25 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate  
26 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the  
27 issuance to me of an unrestricted real estate salesperson license.

1 I hereby admit that the allegations of the Statement of Issues filed against me are true and  
2 correct and request that the Real Estate Commissioner in his discretion issue a restricted real estate  
3 salesperson license to me under the authority of Section 10156.5 of the Business and Professions Code. I  
4 understand that any such restricted license will be issued subject to and be limited by Section 10153.4 of the  
5 Business and Professions Code.

6 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing  
7 and the opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an  
8 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate  
9 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a  
10 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

11 I further understand that the following conditions, limitations, and restrictions will attach to  
12 a restricted license issued by the Department of Real Estate pursuant hereto:

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

17 a. The conviction of Respondent (including a plea of nolo contendere) to a crime  
18 which bears a substantial relationship to Respondent's fitness or capacity as a  
19 real estate licensee; or

20 b. The receipt of evidence that Respondent has violated provisions of the California  
21 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate  
22 Commissioner, or conditions attaching to this restricted license.

23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor  
24 the removal of any of the conditions, limitations or restrictions attaching to the  
25 restricted license until two years have elapsed from the date of issuance of the  
26 restricted license to Respondent.

27 ///

1                   3. With the application for license, or with the application for transfer to a new  
2                   employing broker, I shall submit a statement signed by the prospective employing  
3                   broker on a form approved by the Department of Real Estate wherein the employing  
4                   broker shall certify as follows:

5                   a. That broker has read the Statement of Issues which is the basis for the issuance  
6                   of the restricted license; and

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

10                  4. My restricted real estate salesperson license is issued subject to the requirements of  
11                  Section 10153.4 of the Business and Professions Code, to wit: I am required, within  
12                  eighteen (18) months of the issuance of the restricted license, to submit evidence  
13                  satisfactory to the Commissioner of successful completion, at an accredited  
14                  institution, of a course in real estate practices and one of the courses listed in Section  
15                  10153.2, other than real estate principles, advanced legal aspects of real estate,  
16                  advanced real estate finance, or advanced real estate appraisal. If I fail to timely  
17                  present to the Department satisfactory evidence of successful completion of the two  
18                  required courses, the restricted license shall be automatically suspended effective  
19                  eighteen (18) months after the date of its issuance. Said suspension shall not be lifted  
20                  unless, prior to the expiration of the restricted license, I have submitted the required  
21                  evidence of course completion and the Commissioner has given written notice to  
22                  Respondent of the lifting of the suspension.

23                  5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified  
24                  license under Section 10153.4, Respondent shall not be entitled to renew the restricted  
25                  license, and shall not be entitled to the issuance of another license which is subject to  
26                  Section 10153.4 until four years after the date of the issuance of the preceding  
27                  restricted license.

1 Respondent can signify acceptance and approval of the terms and conditions of this  
2 Stipulation and Waiver by faxing a copy of the signature page, as actually signed by Respondent, to the  
3 Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands that by  
4 electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation  
5 and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the  
6 Department had received the original signed Stipulation and Waiver.

7  
8 7/08/06

Dated

Cuahtemoc Sanchez  
CUAUHTEMOC SANCHEZ, Respondent

9  
10 \* \* \*

11 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver  
12 signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the  
13 honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public  
14 interest to issue a restricted real estate salesperson license to Respondent.

15 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be  
16 issued to Respondent CUAUHTEMOC SANCHEZ, if Respondent has otherwise fulfilled all of the  
17 statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as  
18 specified in the foregoing Stipulation and Waiver.

19 This Order is effective immediately.

20 IT IS SO ORDERED

June 16, 2006  
21 JEFF DAVI  
Real Estate Commissioner

22  
23 by Steven J. Ellis  
24 BY: STEVEN J. ELLIS  
Northern Regional Manager  
25  
26  
27



1 DANIEL E. KEHEW, Counsel (SBN 231550)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0425 (Direct)

FILED  
JUN - 2 2006

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 )  
13 CUAUHTEMOC SANCHEZ, )  
14 Respondent. )

H- 4484 SAC

STATEMENT OF ISSUES

15 The Complainant, STEVEN J. ELLIS, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against CUAUHTEMOC SANCHEZ (hereinafter "Respondent"), also known  
18 as Cuauhtemoc Sanchez-Curiel, is informed and alleges as follows:

19 I

20 Complainant, STEVEN J. ELLIS, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Statement of  
22 Issues against Respondent in his official capacity.

23 II

24 Respondent made application to the Department of Real  
25 Estate of the State of California for a real estate salesperson  
26 license on or about July 11, 2005, with the knowledge and  
27 understanding that any license issued as a result of said

1 application would be subject to the conditions of Section 10153.4  
2 of the Business and Professions Code (hereinafter "Code").

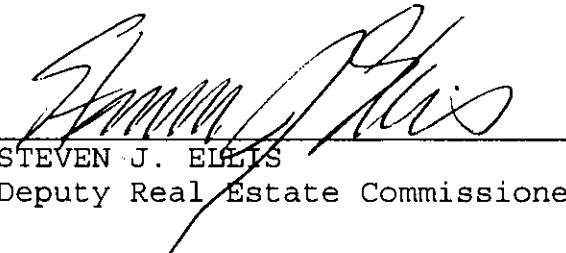
3 III

4 On or about September 26, 2001, in the United States  
5 District Court, District of Arizona, Respondent was convicted of  
6 Transport of Marijuana in violation of 21 USC 952, a felony and  
7 crime involving moral turpitude that bears a substantial  
8 relationship under Section 2910, Title 10, of the Regulations to  
9 the qualifications, functions, or duties of a real estate licensee.

10 IV

11 Respondent's criminal conviction, described in  
12 Paragraph III above, constitutes cause for denial of Respondent's  
13 application for a real estate license under Sections 480(a) and  
14 10177(b) of the Code.

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

21  
22  
23   
24 STEVEN J. ELLIS  
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California  
27 this 2<sup>ND</sup> day of June, 2006.