

FILE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

FILED
MAR 20 2007

DEPARTMENT OF REAL ESTATE

By Anne Shawver

In the Matter of the Application of)
DAVID CUCCIA) NO. H-4559 SAC
Respondent.) OAH NO. N2006110692

DECISION

The Proposed Decision dated February 16, 2007, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

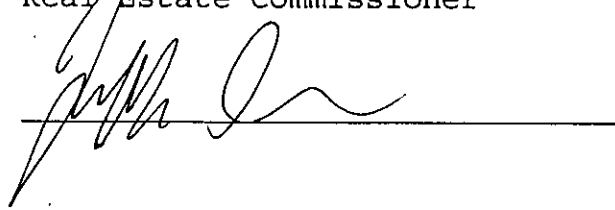
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 09 2007

IT IS SO ORDERED 3/14/, 2007.

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

DAVID CUCCIA,

Respondent.

No. H-4559 SAC

OAH No. N2006110692

PROPOSED DECISION

Gary A. Geren, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on January 18, 2007, in Sacramento, California.

James L Beaver, Counsel, represented Charles W. Koenig (complainant).

Edward O. Lear, Attorney at Law, represented David Cuccia (respondent).

Evidence was received, the record was closed and the matter submitted on January 18, 2007.

FACTUAL FINDINGS

1. Complainant Charles W. Koenig, Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, made and filed this Statement of Issues in his official capacity.

2. On or about May 9, 2006, respondent applied for a real estate salesperson's license. Following review and evaluation of respondent's application, the Department filed this Statement of Issues alleging that respondent's criminal convictions and his failure to fully disclose his convictions on his application provided grounds for denying him licensure. Respondent timely requested the instant hearing and contends that, despite his convictions, he is fit to hold such a license because he has been rehabilitated. Respondent also asserts that he substantially disclosed his convictions on his application.

At hearing, the Department moved to amend the Statement of Issues and to strike paragraph six. The Department's motion was granted, and paragraph six was stricken from the Statement of Issues.

Respondent's Convictions

3. On March 19, 1990, in the Municipal Court of California, County of Santa Cruz, respondent was convicted on his plea of nolo contendere, of vandalism in violation section 594, subsection (b)(3), of the Penal Code, a misdemeanor.

The conviction followed an incident that occurred on January 23, 1990. On that date, respondent drove a car across the grass playing fields of a school, causing damage. Respondent's sentence included an order to pay restitution to the victim in the amount of \$834.88 and to complete 40 hours of volunteer service. Respondent was placed on two years of informal probation.

4. On July 11, 1990, in the Municipal Court of California, County of Santa Cruz, respondent was convicted on his plea of nolo contendere, of driving under the influence of alcohol, in violation of section 23152, subdivision (a), of the Vehicle Code, a misdemeanor.

The conviction followed an incident that occurred on June 15, 1990. On that date, respondent drove a motor vehicle when he had a blood alcohol percentage of 0.18. Respondent was sentenced to serve 48 hours jail time, ordered to pay a \$1,110.00 fine, and placed on 60 months of informal probation.

5. On October 7, 1991, in the Municipal Court of California, County of Santa Cruz, respondent was convicted on his plea of nolo contendere, of providing false information to a peace officer in violation of Penal Code section 148.9 and driving with a suspended license, with two prior offenses, in violation of Vehicle Code section 14601.1(a), both misdemeanors.

The convictions followed an incident that occurred on July 28, 1991. On that date, respondent was driving an automobile and was pulled over by a police officer. Respondent told the officer that he did not have his driver's license in his possession. When the officer asked respondent whether he had a suspended license, respondent told the officer that he did not, when in fact he did. Respondent was ordered to serve 60 days in County jail, and pay fines. He was placed on informal probation for two years.

6. On March 20, 1992, in the Municipal Court of California, County of Santa Cruz, respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code sections 23152 (a), driving under the influence of alcohol, with one prior conviction, and section 14601.1 (a), driving with a suspended license, with three prior convictions, all misdemeanors.

These convictions followed an incident that occurred on January 2, 1992. On that date, respondent was arrested for driving while under the influence of alcohol. Respondent was ordered to serve 60 days in the county jail and pay fines. He was placed on five years of informal probation.

7. On November 15, 1992, in the Municipal Court of California County of Santa Cruz, respondent was convicted on his plea of nolo contendere, of violating vehicle code sections 23152 (a) and section 14601 subdivision (a), driving with a suspended license with two prior convictions.

These convictions followed an incident that occurred on October 18, 1992. On that day, respondent operated a motor vehicle with a blood alcohol percentage of 0.17. Respondent was sentenced to confinement in county jail for 240 days, ordered to pay a fine of \$1562.00, and placed on five years of summary probation. Respondent was permitted to serve four months of his jail time at a residential treatment facility.

Respondent's Failure to Fully Disclose his Convictions on his Application

8. The Department alleged that respondent failed to fully disclose his vandalism conviction. Respondent stated that he called a court clerk in Santa Cruz County to obtain information regarding his convictions. He included on his application all the convictions that the clerk told him of, as well as, convictions that he independently recollected. The clerk did not include the vandalism conviction. Respondent believed the conviction was that it was for a Vehicle Code infraction, and that, he was not required to disclose. Respondent established that he did not attempt to deceive the Department when he submitted his application. Respondent's testimony was credible. He established that he completed the application in a reasonably accurate fashion and in good faith. Respondent's wife and father helped complete the application. They corroborated respondent's testimony in this regard.

Respondent's Rehabilitation

9. Respondent's last conviction was in 1992, fourteen and one-half years ago. Following his convictions in 1992, respondent completed all the terms and conditions of the sentence imposed by the court, including paying all fines, completing the alcohol rehabilitation program, and completing probation.

10. Respondent testified that he suffered from an alcohol problem at the time he committed each of his crimes (with the exception of the vandalism charge). Respondent testified that at the time of his alcohol-related convictions he was a troubled young man. His parents had recently divorced and he had moved into an apartment with older men, who he described as "partiers." While respondent accepted blame for his actions, he added that he allowed these older men to have too great of an influence over him. As a consequence, he began drinking excessively.

11. Respondent completed his alcohol rehabilitation program at the New Life Center. He credits that program with changing his life in a positive way and helping him to overcome his alcohol problem. While at the center, respondent applied to and was accepted in the San Francisco Culinary Academy. Immediately upon completing his stay at the center, respondent enrolled in the academy. At that time, the academy was the top ranked culinary institute in the United States. Respondent completed its eighteen month program, stating that the academy was operated like a military organization. Respondent graduated in the top 10% of his class. Upon graduation, respondent was offered an externship at the Ritz Carlton Hotel in San Francisco. He accepted the externship and after 30 days was offered a position working for the Ritz Carlton. He declined that position in order to work at a restaurant in Santa Cruz, California. Respondent worked for various restaurants in Santa Cruz until he and his wife opened their own restaurant in 1999. He and his wife successfully ran their restaurant for five years before they decided to relocate to Murphys, California, where they opened a cookie shop. Respondent closed the cookie shop in 2005 because he became ill with liver disease that required chemotherapy. Respondent now seeks a career in real estate because it would be physically less demanding than being a restaurant owner.

12. Respondent testified that after completing his alcohol rehabilitation program, he worked daily in restaurants where alcohol was served, but that he did not drink. He believes he now lives his life on a "higher path" and has put the foolish ways of his past behind him. Respondent readily admitted that his conduct in each of the incidents for which he was convicted was unquestionably wrong. He was remorseful for having committed the crimes.

13. Hana Sue Drilling, respondent's mother, testified that, at the time respondent committed his crimes, he was an angry and troubled young man. In contrast, respondent is now "everything she ever wanted in a son." He is a hard-working, respected and family-oriented man. Ms. Drilling is a realtor in Murphys. She has no reservation in recommending her son to receive a real estate license, knowing that Murphys is a small town and that an individual's reputation in the community is vital to being a successful real estate agent.

14. Ellaine O'Malley, respondent's mother-in-law, testified that she has known respondent for approximately fifteen years. She has always known him to be a law-abiding citizen. Based on her personal experience with respondent she could not conceive of him committing the crimes for which he was convicted. Ms. O'Malley sees respondent as a caring, responsible and compassionate man. She described respondent as, "the best son-in-law she could hope for." Ms. O'Malley also resides in Murphys and testified that respondent enjoys a good reputation in the community.

15. Stacy Racquel Cuccia, respondent's wife, testified that she met respondent in August 1991 and they married five years later. They have been married for eleven years and have two children. Ms. Cuccia knew respondent before and after he completed his alcohol rehabilitation program. After his completion of the program, respondent became a "new man," who set goals that he wanted to accomplish. Ms. Cuccia testified that respondent has achieved his goals, such as owning his own restaurants and raising a family. She testified

that respondent is a good example of "what a man should be." Ms. Cuccia stated that her father was a real estate broker for 30 years, and because of that, she knows how important honesty is in the real estate profession. She believes respondent is "that kind of guy."

Respondent's children are six and nine years old. According to Ms. Cuccia, respondent is a good father to them, who tries to set a good example for how they should live their lives. Ms. Cuccia and respondent established that they enjoy a happy and stable family life and are mutually supportive of one another.

16. William Cuccia, respondent's father, also lives in Murphys and works as a realtor. He stated that after respondent's graduation from the culinary academy, he lived his life with degree of self-discipline that he previously lacked. He has absolute confidence in his son being able to successfully and honestly carry out the obligations required of a real estate salesperson.

17. Respondent is active in the community and participates in organizations such as the Calaveras County Chamber of Commerce.

18. Letters of reference were provided by three real estate brokers, each attesting to respondent's good character and recommending that he be granted his real estate license. One broker, Jim Bailey, of United Mortgage Specialists, Inc., for whom respondent has worked for over the last year or so as an assistant, provided a standing offer of employment to respondent if he receives his salesperson's license.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be denied to an applicant who has been convicted of a felony or a crime involving moral turpitude.^[1] "Moral turpitude" means a general "readiness to do evil"... i.e., 'an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.'" (*People v. Mansfield* (1988) 200 Cal.App.3d 82, 87, citations omitted.)

2. Respondent's multiple convictions for both driving under the influence, and on a suspended license, as well as his conviction for providing false information to a police officer, involve moral turpitude. (*People v. Castro* (1985) 38 Cal.3d 301, 306.) Respondent's vandalism conviction does not. (*People v. Campbell* (1994) 23 C.A. 4th 1488). Respondent's convictions, therefore, establish cause to deny respondent's license application under Business and Professions Code section 10177, subdivision (b).

3. In addition to establishing that respondent's convictions involved moral turpitude, complainant must also establish that those convictions are substantially related to the qualifications, functions or duties of a real estate licensee in accordance with Business and Professions Code section 480.¹²¹ (*Petropoulos v. Department of Real Estate* (2006) 142 Cal. App. 4th 554, 564-7.)

4. In California Code of Regulations, title 10, section 2910, subdivision (a), the Department has set forth criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. Pursuant to subdivision (a), sections (4), (10), and (11), respondent's convictions are substantially related to qualifications, functions or duties, of a real estate salesperson. (Findings 3-7). A real estate salesperson is expected to behave with honesty and integrity toward the public and his clients. (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 406.)

Failure to Disclose

5. Business and Professions Code sections 480, subdivision (c), and 10177, subdivision (a) provide that the Department may deny a real estate license to anyone who makes a material misstatement of fact on an application. Section 10177, subdivision (a) further provides that an attempt to procure a license by means of fraud, misrepresentation or deceit is grounds for denial of the licensure.

6. Courts distinguish between affirmative misstatements intended to place an applicant at an advantage, versus the unintentional nondisclosure of information that is not morally significant. Such an inquiry includes whether there is any apparent motive on the part of the applicant to lie about the matter or whether the failure to include omitted information may qualify as the sort of unintentional nondisclosure of a relatively unimportant matter that does not justify an applicant's exclusion from a profession. (*Lubetzky v. State Bar* (1991) 54 Cal.3d 308, 319). Respondent's less than accurate disclosure of his vandalism conviction in 1990 does not provide a basis for the Department to deny his request for licensure for the reasons stated in Finding 8.

Rehabilitation

7. An applicant must produce persuasive evidence that, despite his or her convictions, he or she has been sufficiently rehabilitated to justify the receipt of a license. Rehabilitation is a "state of mind" and the law looks with favor upon one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058). Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940). Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is demonstrated by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991). The significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) Cal.3d 1061, 1070).

8. California Code of Regulations section 2911 provides specific criteria to be used to evaluate an applicant's claim of rehabilitation. ^[3]

9. With these principles in mind, cause for issuance of a restricted salesperson's license exists. Respondent is not presently considered a danger to the public health, safety or welfare, and the granting a restricted salesperson's license would not be contrary to the public interest. (Findings 9-18).

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

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.

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.

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

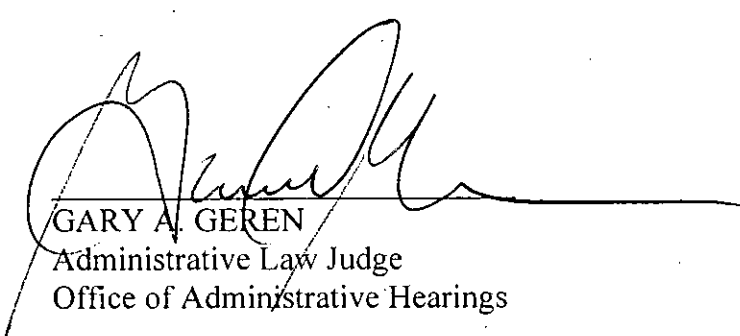
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, 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 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: 2-16-07


GARY A. GEREN
Administrative Law Judge
Office of Administrative Hearings

¹¹ Business and Professions Code section 10177, in relevant part, provides:

The commissioner ... 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.

^[2] Business and Professions Code section 480, in relevant part, provides:

(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. ...
- (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or
- (3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

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.

^[3] California Code of Regulations, title 10, section 2911 states:

Criteria of Rehabilitation (Denial).

The following criteria have been developed by the department pursuant to section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

- (a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.
- (c) Expungement of criminal convictions resulting from immoral or antisocial acts.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.

(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

- (1) Testimony of applicant.
- (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.
- (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
- (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.
- (5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

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STATE OF NEW YORK

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FILED
OCT 19 2006

DEPARTMENT OF REAL ESTATE

By K. Mat

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 DAVID CUCCIA,) No. H-4559 SAC.
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against DAVID CUCCIA (herein "Respondent"), alleges as
18 follows:

19 I

20 Complainant, Charles W. Koenig, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

24 On or about May 9, 2006, Respondent made application
25 to the Department of Real Estate of the State of California
26 (hereinafter "the Department") for a real estate salesperson
27 license with the knowledge and understanding that, pursuant to

1 the provisions of Section 10153.3 of the Business and
2 Professions Code, any license issued as a result of said
3 application would be subject to the conditions of Section
4 10153.4 of the California Business and Professions Code
5 (hereinafter "the Code").

6 III

7 In response to Question 25 of said application, to
8 wit: "Have you ever been convicted of any violation of law?
9 Convictions expunged under Penal Code Section 1203.4 must be
10 disclosed. However, you may omit minor traffic citations which
11 do not constitute a misdemeanor or felony offense", Respondent
12 concealed and failed to disclose the convictions described in
13 Paragraphs IV and VII, below.

14 IV

15 On or about March 19, 1990, in the Municipal Court of
16 the State of California, County of Santa Cruz, Respondent was
17 convicted of the crime of Vandalism in violation of Penal Code
18 Section 594(b)(3), a misdemeanor and a crime involving moral
19 turpitude which bears a substantial relationship under Section
20 2910, Title 10, California Code of Regulations (herein "the
21 Regulations"), to the qualifications, functions or duties of a
22 real estate licensee.

23 V

24 On or about July 11, 1990, in the Municipal Court of
25 the State of California, County of Santa Cruz, Respondent was
26 convicted of the crime of Driving Under The Influence Of Alcohol
27 in violation of Vehicle Code Section 23152(a), a misdemeanor and

1 a crime involving moral turpitude which bears a substantial
2 relationship under Section 2910 of the Regulations to the
3 qualifications, functions or duties of a real estate licensee.

4 VI

5 On or about January 31, 1991, in the Municipal Court
6 of the State of California, County of Santa Cruz, Respondent was
7 convicted of the crime of Driving With Suspended License in
8 violation of Vehicle Code Section 14601.1(a), a misdemeanor and
9 a crime involving moral turpitude which bears a substantial
10 relationship under Section 2910 of the Regulations to the
11 qualifications, functions or duties of a real estate licensee.

12 VII

13 On or about October 7, 1991, in the Municipal Court of
14 the State of California, County of Santa Cruz, Respondent was
15 convicted of the crime of False Information To Peace Officer in
16 violation of Penal Code Section 148.9, and of the crime of
17 Driving With Suspended License With Two Priors in violation of
18 Vehicle Code Section 14601.1(a), each a misdemeanor and a crime
19 involving moral turpitude which bears a substantial relationship
20 under Section 2910 of the Regulations to the qualifications,
21 functions or duties of a real estate licensee.

22 VIII

23 On or about March 20, 1992, in the Municipal Court of
24 the State of California, County of Santa Cruz, Respondent was
25 convicted of the crime of Driving Under The Influence Of Alcohol
26 With One Prior in violation of Vehicle Code Section 23152(a),
27 and of the crime of Driving With Suspended License With Three

1 Priors in violation of Vehicle Code Section 14601.1(a), each a
2 misdemeanor and a crime involving moral turpitude which bears a
3 substantial relationship under Section 2910 of the Regulations
4 to the qualifications, functions or duties of a real estate
5 licensee.

6 IX

7 On or about November 15, 1992, in the Municipal Court
8 of the State of California, County of Santa Cruz, Respondent was
9 convicted of the crime of Driving With Blood Alcohol Over .08%
10 With Two Priors in violation of Vehicle Code Section 23152(a),
11 and of the crime of Driving With Suspended License in violation
12 of Vehicle Code Section 14601.2(a), each a misdemeanor and a
13 crime involving moral turpitude which bears a substantial
14 relationship under Section 2910 of the Regulations to the
15 qualifications, functions or duties of a real estate licensee.

16 X

17 In failing to reveal the conviction described in
18 Paragraphs IV and VIII, above, in said application, Respondent
19 attempted to procure a real estate license by fraud,
20 misrepresentation, or deceit, or by making a material
21 misstatement of fact in said application, which constitutes
22 cause for denial of Respondent's application for a real estate
23 license under Sections 480(c) and 10177(a) of the California
24 Business and Professions Code.

25 XI

26 Respondent's criminal convictions described in
27 Paragraphs III through IX, inclusive, above, individually and

1 collectively constitute cause for denial of Respondent's
2 application for a real estate license under Sections 480(a) and
3 10177(b) of the California Business and Professions Code.

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

10
11 
12 CHARLES W. KOENIG
Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 18th day of October, 2006.