

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
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FILED
MAY 25 2007

DEPARTMENT OF REAL ESTATE

By H. Contreras

7 DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11 JOSE ANTONIO RIVERA

12
13 Respondent

) No. H- 4709 SAC
)
)
)

) **STIPULATION AND**
) **WAIVER**
)
)

14
15 I, JOSE ANTONIO RIVERA, respondent herein, do hereby affirm that I have applied to the
16 Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have
17 satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee
18 therefor.

19 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
20 filed by the Department of Real Estate on March 27, 2007, in connection with my application for a real
21 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this
22 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove
23 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real
24 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
25 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
26 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
27 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

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

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

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

- 15 1. The license shall not confer any property right in the privileges to be exercised including the
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
17 to exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
22 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 the
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until two years have elapsed from the date of issuance of the restricted license to respondent.
26
27

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

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

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

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

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

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 4/12/07

4 Dated

JOSE ANTONIO RIVERA, Respondent

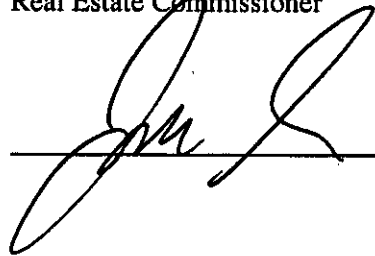
5 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by
6 respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and
7 truthfulness of respondent need not be called and that it will not be inimical to the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

9 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
10 respondent JOSE ANTONIO RIVERA if respondent has otherwise fulfilled all of the statutory requirements
11 for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing
12 Stipulation and Waiver.

13 This Order is effective immediately.

14 IT IS SO ORDERED 5/23/07

16 Jeff Davi
17 Real Estate Commissioner

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FILED
MAR 27 2007

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 JOSE ANTONIO RIVERA,)
13 Respondent.)

H-4709 SAC

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 JOSE ANTONIO RIVERA (herein "Respondent") is
18 informed and alleges as 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 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 3, 2006, 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 (herein "Code").

3 III

4 In response to Part D Background Information, Question 1,
5 of said application, to wit: "Have you ever had a business or
6 professional license (including real estate) denied suspended
7 restricted or revoked in California or any other state?",
8 Respondent concealed and failed to disclose the license
9 discipline action described in Paragraph VI, below.

10 IV

11 On or about March 24, 1997, in the Superior Court of
12 California, County of San Joaquin, Respondent was convicted of
13 two counts of the crime of Theft in violation of Section 484(a)
14 of the Penal Code, each a misdemeanor and a crime involving moral
15 turpitude that bears a substantial relationship under Section
16 2910, Title 10, Chapter 6 of the California Code of Regulations
17 (herein "Regulations"), to the qualifications, functions, or
18 duties of a real estate licensee.

19 V

20
21 Effective August 6, 1998, in Case No. S-97-0085, before
22 the Director of the Department of Motor Vehicles of the State of
23 California, after giving Respondent fair notice of the charges,
24 an opportunity for a hearing, and other due process protections
25 required by the Administrative Procedure Act, the Director of the
26 California Department of Motor Vehicles revoked Respondent's
27 vehicle salesperson's license number S-455499 pursuant to the

1 provisions of Sections 11705(a)(14), 11703(d), and 11806(d) of
2 the California Vehicle Code for acts which, if committed by a
3 real estate licensee, would constitute grounds for the suspension
4 or revocation of a California real estate license pursuant to
5 the provisions of Sections 490, 10177(b), and 10177(j) of the
6 Code.

7
8 VI

9 Effective August 1, 2003, in Case No. S-03-0017, before
10 the Director of the Department of Motor Vehicles of the State of
11 California, after giving Respondent fair notice of the charges,
12 an opportunity for a hearing, and other due process protections
13 required by the Administrative Procedure Act, the Director of the
14 California Department of Motor Vehicles denied Respondent's
15 application for reissuance of his vehicle salesperson's license
16 number S-455499 pursuant to the provisions of Sections 11703(a),
17 11703(d), and 11806(d), of the California Vehicle Code for acts
18 which, if committed by a real estate licensee, would constitute
19 grounds for the suspension or revocation of a California real
20 estate license pursuant to the provisions of Sections 480,
21 10177(b), and 10177(j) of the Code.

22
23 VII

24 Respondent's criminal conviction, described in
25 Paragraph IV, above, constitutes cause for denial of Respondent's
26 application for a real estate salesperson license pursuant to the
27 provisions of Sections 480(a) and 10177(b) of the Code.

VIII

Respondent's acts and omissions described in Paragraphs V, and VI, above, constitute cause for denial of Respondent's application for a real estate license under Section 10177(f) of the Code.

IX

Respondent's failure to reveal in said application the application for reissuance of Respondent's vehicle salesperson's license denial set forth in Paragraph VI, above, constitutes the procurement of or attempt to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate salesperson license pursuant to the provisions of Sections 480(c) and 10177(a) of the Code.

PRIOR ADMINISTRATIVE PROCEEDING

X

Effective November 18, 2004, in Case No. H-4041 SAC before the Department of Real Estate of the State of California, Respondent's application for a real estate salesperson license was denied, pursuant to:

1) Sections 480(a)(1) and 10177(b) of the Code based on the conviction described in Paragraph IV, above;

2) Section 10177(f) of the Code based on the Department of Motor Vehicle revocation and denial of Respondent's vehicle salesperson's license described in Paragraphs V and VI, above; and

3) Sections 480(c) and 10177(a) based on Respondent's attempt to procure a real estate license by misrepresentation and by making material misstatements of fact required to be revealed in the application.

WHEREFORE, 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.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 5th day of March, 2007.