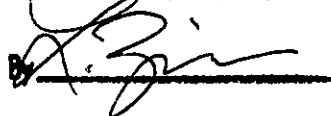


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DEPARTMENT OF REAL ESTATE



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of
NEW LIFE MODIFICATIONS,
Respondent.

DRE No. H-5268 SAC
OAH No. N-2009110353

DECISION AFTER REJECTION

This matter came on for hearing before Dian M. Vorters, Administrative Law Judge, Office of Administrative Hearings, State of California, in Sacramento, California, on November 25, 2009.

Truly Sughrue, Counsel, represented the Complainant. Ruben Gamino Venegas and Manuel Antonio Zurita, Corporate Officers, appeared on behalf of Respondent New Life Modifications.

Evidence was received, the record was closed, and the matter was submitted.

On December 14, 2009, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner declined to adopt as his Decision herein. Pursuant to Section 11517 of the Government Code of the State of California, Respondent was served with notice of the Real Estate Commissioner's determination not to adopt the Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that the case

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DEPARTMENT OF REAL ESTATE



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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of

NEW LIFE MODIFICATIONS,

Respondent.

No. H-5268 SAC
OAH No. 2009110353

NOTICE

TO: NEW LIFE MODIFICATIONS, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated December 14, 2009, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated December 14, 2009, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on November 25, 2009, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of November 25, 2009, at the

///

1 Sacramento office of the Department of Real Estate unless an extension of the time is granted for
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Sacramento office of the
5 Department of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: 12/23/2009

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8 JEFF DAVI
9 Real Estate Commissioner

10 
11 _____

12 By WAYNE S. BELL
13 Chief Counsel

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

NEW LIFE MODIFICATIONS,

Respondent.

Case No. H-5268 SAC

OAH No. 2009110353

PROPOSED DECISION

This matter was heard before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, on November 25, 2009, in Sacramento, California.

Truly Sughrue, Counsel, Department of Real Estate, represented complainant.

Ruben Gamino Venegas and Manuel Antonio Zurita, Corporate Officers, appeared on behalf of New Life Modifications.

The case was submitted for decision on November 25, 2009.

FACTUAL FINDINGS

1. Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the State of California, filed the Statement of Issues in her official capacity on October 14, 2009.

2. Respondent made application to the Department of Real Estate of the State of California (Department) for a real estate broker corporate license on or about August 31, 2009. Manuel Antonio Zurita, broker/officer, signed the application on August 25, 2009.

3. New Life Modifications (respondent) is presently licensed under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a licensed corporation for the purpose of engaging in real estate transactions. Respondent's corporate license was issued October 5, 2009, suspended October 27, 2009¹, and will expire October 4, 2013, unless renewed.

¹ On October 29, 2009, the commissioner filed an Order Suspending Real Estate License against New Life Modifications, pursuant to Business and Professions Code section 10177.1. This order was issued in response to the

4. Designated Officer Manuel Antonio Zurita is presently licensed under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a real estate broker. He was previously issued a real estate salesperson license from November 16, 2004 through April 20, 2007. Mr. Zurita's broker license (B-01462800), issued April 21, 2007, was in full force and effect at all times relevant herein, and will expire on April 20, 2011, unless renewed. Mr. Zurita was licensed as the designated officer of New Life Modifications (C-01871976), from October 5, 2009 to October 26, 2009.

5. Ruben Gamino Venegas is presently licensed under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a restricted real estate salesperson. Mr. Venegas' restricted real estate salesperson license (S-01798269), issued October 1, 2007, was in full force and effect at all times relevant herein, and will expire on September 30, 2011, unless renewed. On or about August 24, 2009, Mr. Venegas' real estate salesperson license was activated in the employ of Mr. Zurita's broker license.

6. For the purpose of establishing a corporation, on August 20, 2009, Mr. Venegas filed with the Office of the Secretary of State, State of California, Articles of Incorporation for New Life Modifications. Mr. Venegas was named as the corporation's initial agent for service of process.

7. On or about September 9, 2009, Mr. Venegas signed and filed with the Office of the Secretary of State, State of California, a Statement of Information (Limited Liability Company) for New Life Modifications. Mr. Zurita and Mr. Venegas are the corporation's only named managers. Mr. Venegas is the Chief Executive Officer (C.E.O.) and holds a 49 percent interest in corporate shares. Mr. Zurita is the treasurer and holds a 51 percent interest in corporate shares.

Corporate Real Estate License Application

8. On August 25, 2009, Mr. Zurita, designated broker-officer, signed a Corporation License Application, on behalf of New Life Modifications. The application was filed with the Department on August 31, 2009.

9. Section II of the Corporate License Application solicits information on the applicant's criminal and licensing background. To the question, "Have you ever been convicted of a misdemeanor or felony?" Mr. Zurita answered "Yes" and provided that on November 5, 2003, in the Superior Court of California, County of Sacramento, in Case No. 03T05269, he was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence (DUI)), a misdemeanor. This information was true and complete.

filed, on October 14, 2009, of this Statement of Issues, CDSS Case No. H-5268 SAC. Business and Professions Code section 10177.1 states that if the decision of the commissioner is not rendered within 30 days after completion of the hearing, the order of suspension shall be vacated and set aside.

10. Section II also asks the Broker-Officer to answer the following background information questions:

“Are there criminal charges pending against you at this time?”

“Have you ever had a denied, suspended, restricted, or revoked business or professional license (including real estate), in California or any other state?”

“Are there any license disciplinary actions pending against a business or professional license you hold at this time?”

Mr. Zurita answered “No” to each of these questions. This information was true and complete.

11. Section III of the Corporate License Application solicits background information on the other corporate real estate brokers, officers, directors, and shareholders, pursuant to California Code of Regulations, title 10, section 2746. Among the information that must be disclosed is whether any officer has:

- (1) Received an order or judgment issued by a court or governmental agency during the preceding ten years temporarily or permanently restraining or enjoining any business conduct, practice or employment;
- (2) Has had a license to engage in or practice real estate or other regulated profession, occupation or vocation denied, suspended or revoked during the preceding ten years;
- (3) Engaged in acts requiring a real estate license of any state without the benefit of a valid license or permit authorizing that conduct during the preceding ten years which have been enjoined by a court of law or administrative tribunal.
- (4) Been convicted of a crime which is substantially related to the qualifications, functions, or duties of a licensee of the Department as specified in Section 2910 of these Regulations (excluding drunk driving, reckless driving and speeding violations).

Mr. Zurita checked the box certifying that “a Corporation Background Statement (RE 212) is not needed for any officers or persons owning or controlling more than ten percent of the corporation shares including myself.”

This information was inaccurate as Mr. Venegas is a corporate officer and major shareholder of New Life Modifications. Mr. Venegas was denied an unrestricted real estate salesperson license and granted a restricted license in September 2007.

12. Mr. Zurita attached to the Corporate License Application, a copy of the Articles of Incorporation for New Life Modifications, filed with the Secretary of State on August 20, 2009. (Factual Finding 6.)

Statement of Issues against Ruben G. Venegas

13. On July 25, 2007, the Department filed a Statement of Issues against Ruben Gamino Venegas, in CDRE Case No. H-4836 SAC. The Statement of Issues alleged that Mr. Venegas was convicted of the following Vehicle Code Violations:

- a. On August 2, 1996, in the Superior Court of California, County of Monterey, a violation of Vehicle Code section 23103.5, subdivision (a) (alcohol related reckless driving), a misdemeanor.
- b. On February 4, 1997, in the Superior Court of California, County of Monterey, a violation of Vehicle Code section 14601.5, subdivision (a) (driving with a suspended license), a misdemeanor.
- c. On January 29, 1998, in the Superior Court of California, County of Monterey, a violation of Vehicle Code section 23152, subdivision (a) (DUI), a misdemeanor.
- d. On June 19, 1998, in the Superior Court of California, County of Monterey, a violation of Vehicle Code section 14601.5, subdivision (a) (driving with a suspended license), a misdemeanor.

14. On August 27, 2007, Mr. Venegas signed a stipulation and waiver to the Statement of Issues. By signing this stipulation he waived his right to a hearing on the matter and the commissioner granted him a restricted real estate salesperson license. The commissioner's granting of a restricted license to Mr. Venegas on August 27, 2007, is in fact a denial of an unrestricted real estate salesperson license.

15. Mr. Venegas testified that at the time he completed his real estate salesperson application, he did not realize that a DUI was considered a misdemeanor. After explaining this by phone to the Department, he was given a restricted license. He has not suffered a conviction subsequent to 1998. He previously worked at New Leaf Mortgage but lost his job after the owner was investigated and shut down. Mr. Venegas enjoyed the work and desired to continue helping people hurt by the financial crisis. He volunteers his time to facilitate completion of modification packages. If New Life Modifications were granted a license, they would continue this work for the benefit of the community.

16. Mr. Venegas stated that he admires his colleague, Mr. Zurita, and that he has been humbled by this experience. He stated they did not intend to mislead the Department on any forms. He knew the Department had his license history and he had no reason to hide information that the Department already had in their possession. He reviewed the corporate

license application and believed it only applied to Mr. Zurita, who did disclose his 2003 DUI. Mr. Venegas now understands that the form did apply to him as well. This was the first time they had ever created a corporation. Mr. Venegas acknowledged that "ignorance is not an excuse" but that "people make mistakes."

17. Marcus Beltramo has been a deputy commissioner with the Department for approximately three years. He testified that his investigation was based on his belief that Mr. Venegas had "issues in his background that were not disclosed." Mr. Beltramo met with Mr. Zurita on October 6, 2009 and spoke by telephone to Mr. Venegas on October 7, 2009. Mr. Beltramo did not inform either party that the license had issued on October 5, 2009. Mr. Beltramo requested a copy of the Statement of Information, which was timely provided on October 9, 2009. There is no evidence that Mr. Zurita attempted to withhold the fact that Mr. Venegas held more than ten percent of corporate shares in order to avoid disclosures. In fact, the Articles of Incorporation naming Mr. Venegas as the corporation's agent for service of process were attached to the corporate license application. (Factual Finding 12.)

Credibility

18. Good character in a licensee is an important consideration for licensing purposes. The commissioner may require any other proof he or she may deem advisable concerning the honesty and truthfulness of any applicant for a real estate license or license examination, or of the officers, directors, or persons owning more than ten percent of the stock, of any corporation, before authorizing the issuance of a real estate license. For this purpose the commissioner may call a hearing in accordance with this part relating to hearings. (Bus. & Prof. Code, § 10152.)

19. In determining the credibility of a witness, the court can consider any matter that has any tendency in reason to prove or disprove the truthfulness of the testimony at the hearing. Considerations include but are not limited to the witness's demeanor, his character for honesty or veracity, the existence or nonexistence of a bias, interest, or other motive, and a statement previously made by him that is consistent or inconsistent with any part of his testimony. (Evid. Code, §780, subs. (a)-(k).)

20. The Department has called into question, Mr. Zurita's character for honesty in filing the corporation license application. It is noted that Mr. Zurita was honest in his disclosure of own DUI conviction in Section II (Broker-Officer Information) of the corporation license application. At hearing, he testified that he was aware of the fact that Mr. Venegas held a restricted license. He was not aware of the actual offenses for which Mr. Venegas was convicted. He did not intend to mislead the Department and believed that the Department had possession of all his and Mr. Venegas' background information. He did not know there was a problem with the corporation license application until he met with Mr. Beltramo on October 6, 2009, regarding a missing RE212 form. Mr. Zurita testified with candor and sincerity that any omission in the application was solely due to his own misinterpretation of the language in Section III. There is no evidence of fraud or intent to

mislead the Department in Mr. Zurita's efforts to obtain a corporation license for New Life Modifications.

21. However, the Department relies on broker-officers to submit complete and accurate information and Mr. Zurita did not do so. While his conduct does not warrant a revocation of the corporate license issued October 5, 2009, a restricted corporate license would be appropriate to ensure public protection.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 480, subdivision (c) states that 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.
2. Business and Professions Code section 10156.5, subdivision (b) authorizes the commissioner to issue a restricted license to a person who is applying for a license under this chapter, who has met the examination and experience requirements, but who has been found by the commissioner after a hearing to have failed to have made a satisfactory showing that he meets all of the other requirements for a license, where such failure would justify the denial of the license.
3. Business and Professions Code section 10177, subdivision (a) states in relevant part that the commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has "procured, or attempted to procure, a real estate license or license renewal, for himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a material statement of fact in an application for a real estate license, license renewal, or reinstatement."
4. Business and Professions Code section 10177.1 gives the commissioner the authority to "without a hearing, suspend the license of any person who procured the issuance of the license to himself by fraud, misrepresentation, deceit, or by the making of any material misstatement of fact in his application for such license. ... A statement of issues ... shall be filed and served upon the respondent with the order of suspension."
5. California Code of Regulations, title 10, section 2746 states in relevant part:
 - (a) At the time of application for, or in the reinstatement of, an original real estate license, the designated officer shall file a background statement of information for each director, chief executive officer, president, ... subordinate officers, ... and all natural persons owning or controlling more than ten percent of its shares, if such person has been the subject of any of the following:

- (2) Has had a license to engage in or practice real estate or other regulated profession, occupation or vocation, denied, suspended or revoked during the preceding ten years;

[¶]...[¶]

- (4) Been convicted of a crime which is substantially related to the qualifications, functions or duties of a licensee of the Department as specified in Section 2910 of these Regulations (excluding drunk driving, reckless driving and speeding violations.).

(b) The background statement shall be set forth in DRE Form 212 and shall inquire only about the information to be disclosed pursuant to subdivision (a). The background statement must be verified and completed by each corporate officer, director or stockholder as named in subdivision (a) to the fullest extent of the signatory's actual knowledge.

Cause for Discipline

6. Mr. Venegas was issued a restricted real estate salesperson license on September 28, 2007. His restricted license was granted upon stipulation that denial of an unrestricted real estate salesperson license was justified. (Factual Finding 14.) Mr. Zurita, as the designated officer completing the corporation license application, was required to disclose this information in a background statement pursuant to California Code of Regulations, title 10, section 2746, subdivision (a)(2).

7. The crime of driving with a suspended license in violation of Vehicle Code section 14601.5, subdivision (a), is not substantially related to the qualifications, functions and duties of a real estate licensee as defined in California Code of Regulations, title 10, section 2910, subdivisions (a). However, two such convictions can be considered to "demonstrate a pattern of repeated and willful disregard of law." (Cal. Code of Regs., tit. 10, § 2910, subd. (a)(10).) As such, to the extent of Mr. Zurita's actual knowledge of these convictions, he was required to disclose this information in a background statement pursuant to California Code of Regulations, title 10, section 2746, subdivision (a)(4) and (b). (Factual Finding 20.)

8. The crimes of driving under the influence and reckless driving, are specifically excluded from the disclosure requirements of California Code of Regulations, title 10, section 2746, subdivision (a)(4). As such, Mr. Zurita, was not required to disclose this information in a background statement as a matter of law.

9. Cause for denial of respondent New Life Modifications' application for a corporation license exists pursuant to Business and Professions Code sections 480 subdivision (c) and 10177, subdivision (a), and Legal Conclusion 6, in that respondent knew

that Mr. Venegas held a restricted real estate salesperson license and certified that Corporate Background Statement (RE 212) was not needed for any officers or persons owning or controlling more than ten percent of the corporation shares.

Analysis

10. Mr. Zurita testified that he knew Mr. Venega held a restricted real estate salesperson license. He testified convincingly that his failure to submit a background statement on Mr. Venegas was due to inadvertence and not with the aim of obtaining a license by misrepresentation or fraud. This is supported by the fact that he provided information on his own DUI conviction in the Broker-Information section of the application. Section II of the corporation license application is more specific in regards to the information required to be disclosed. (Findings 9 and 10.) Nothing in Mr. Zurita's conduct during the investigation supports a finding of intent to mislead. He testified that he knew that the Department had Mr. Venegas' information and did not think he had to specifically disclose this information in the corporate license application. He was mistaken as to his obligation to provide the information in Section III directly.

11. Mr. Zurita has held real estate licenses issued by the Department since 2004. (Factual Finding 4.) He has no prior violations or claims of unprofessional conduct. His only conviction is for a 2003 DUI, a charge excepted from the reporting requirements for officers and major shareholders under California Code of Regulations, title 10, section 2746. Mr. Venegas' last DUI offense occurred over eleven years ago. A review of all of the facts and testimony supports a conclusion that the omission in the corporate license application was due to inadvertence, not fraud.

Conclusion

12. Manuel Antonio Zurita, designated officer of respondent New Life Modifications, sustained his burden to establish that a real estate broker corporate license can be issued at this time without harm to the public, with appropriate restrictions and conditions.

ORDER


adopted

All licenses and licensing rights of respondent New Life Modifications, under the Real Estate Law are revoked; provided, however, a restricted real estate broker corporate license shall be issued to respondent New Life Modifications pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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 that Code:

adopted

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate commissioner in the event of a conviction or plea of no contest to a crime that is substantially related to the individual's fitness or capacity as a real estate licensee, by any director, chief executive officer, president, first level vice president, secretary, chief financial officer, subordinate officer with responsibility for forming policy of the corporation or any natural person owning or controlling more than ten percent of outstanding shares.
3. The restricted licenses issued to respondent may be suspended prior to hearing by Order of the real estate commissioner on evidence satisfactory to the commissioner 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 the restricted licenses.
4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.
5. Respondent shall report in writing to the department as the real estate commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the commissioner shall deem appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transactions in which respondent engaged during the period covered by the report.

Dated: December 14, 2009


DIAN M. VORTERS
Administrative Law Judge
Office of Administrative Hearings

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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)
NEW LIFE MODIFICATIONS,)
Respondent.)

No. H-5268 SAC

ORDER SUSPENDING REAL ESTATE LICENSE

TO: MANUEL ANTONIO ZURITA, ON BEHALF OF NEW LIFE
MODIFICATIONS, RESPONDENT

On or about August 31, 2009, the above-named Respondent filed with the Department of Real Estate of the State of California (hereinafter referred to as "Department") an application for a real estate corporate license. In response to a Section III, to wit:

Corporate Real Estate Brokers, Officers, Directors and Shareholders

- (a) At the time of application for, or in the reinstatement of, an original real estate broker license, the designated officer shall file a background statement of information for each director, the chief executive officer, the president, first level vice presidents, secretary, chief financial officer, subordinate officers with responsibility for forming policy of the corporation and all natural persons owning or controlling more than ten percent of its shares, if such a person has been the subject of any of the following:

- 1) Received an order or judgment issued by a court or governmental agency during the proceeding 10 years temporarily or permanently restraining or enjoining any business conduct, practice or employment;
- 2) Has had a license to engage in or practice real estate or other regulated profession, occupation or vocation denied, suspended or revoked during the proceeding 10 years;
- 3) Engaged in acts requiring a real estate license of any state without the benefit of a valid license or permit authorizing that conduct during the preceding 10 years which have been enjoined by a court or administrative tribunal;
- 4) Been convicted of a crime which is substantially related to the qualifications or duties of a licensee of the Department as specified in Section 2910 of these Regulations (excluding drunk driving, reckless driving and speeding violations).

Manuel Antonio Zurita, the Designated Officer acting on behalf of Respondent certified: "I also certify that a Corporation Background Statement (RE 212) is not needed for any officers or person owning or controlling more than ten percent of the corporation shares including myself."

On October 5, 2009, Department issued a real estate corporate license to Respondent in reliance upon the aforesaid answer of Respondent.

On October 14, 2009, in Case No. H-5268 SAC, a Statement of Issues signed by a Deputy Real Estate Commissioner of the State of California was filed charging Respondent with having procured a real estate license by fraud, misrepresentation, or deceit and with knowingly having made a false statement of fact required to be revealed in the application for such license.

NOW, THEREFORE, IT IS ORDERED under authority of Section 10177.1 of the Business and Professions Code of the State of California that the real estate corporate license heretofore issued to Respondent and the exercise of any privileges thereunder is hereby suspended pending final determination made after a hearing on the aforesaid Statement of Issues, a copy of which is attached hereto.

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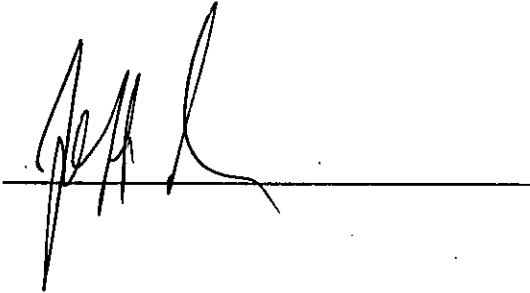
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IT IS FURTHER ORDERED that all license certificates and identification cards issued by Department which are in the possession of Respondent be immediately surrendered by personal delivery or by mailing in the enclosed self-addressed envelope to: Department of Real Estate, Attn: Flag Section, P. O. Box 187000, Sacramento, CA 95818-7000.

This Order shall be effective immediately.

DATED: 10-27-09

JEFF DAVI
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'JEFF DAVI', is written over a horizontal line. The signature is stylized and cursive.

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

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DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 NEW LIFE MODIFICATIONS,)
13 Respondent.)

No. H-5268 SAC
STATEMENT OF ISSUES

15
16 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
17 State of California, for Statement of Issues against NEW LIFE MODIFICATIONS (hereinafter
18 "Respondent") alleges as follows:

19 1

20 Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the State
21 of California, makes this Statement of Issues in her official capacity.

22 2

23 Respondent made application to the Department of Real Estate of the State of
24 California for a real estate broker corporate license on or about August 31, 2009 including in
25 said application the designation of Manuel Antonio Zurita (hereinafter "Zurita") as an officer of
26 Respondent.

27 3

1 Ruben Gamino Venegas (hereinafter "Venegas") is presently licensed and/or has
2 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
3 Code) (Code) as a restricted real estate salesperson.

4 4

5 Venegas is an officer, director, or person owning or controlling ten percent (10%)
6 or more of Respondent's corporate stock.

7 5

8 In response to Section III of said application, to wit:

9 **Corporate Real Estate Brokers, Officers, Directors and Shareholders**

- 10 (a) At the time of application for, or in the reinstatement of, an original real estate
11 broker license, the designated officer shall file a background statement of
12 information for each director, the chief executive officer, the president, first level
13 vice presidents, secretary, chief financial officer, subordinate officers with
14 responsibility for forming policy of the corporation and all natural persons owning
15 or controlling more than ten percent of its shares, if such a person has been the
16 subject of any of the following:
- 17 1) Received an order or judgment issued by a court or governmental agency
18 during the proceeding 10 years temporarily or permanently restraining or
19 enjoining any business conduct, practice or employment;
 - 20 2) Has had a license to engage in or practice real estate or other regulated
21 profession, occupation or vocation denied, suspended or revoked during the
22 proceeding 10 years;
 - 23 3) Engaged in acts requiring a real estate license of any state without the benefit
24 of a valid license or permit authorizing that conduct during the preceding 10
25 years which have been enjoined by a court or administrative tribunal;
 - 26 4) Been convicted of a crime which is substantially related to the qualifications
27 or duties of a licensee of the Department as specified in Section 2910 of these
Regulations (excluding drunk driving, reckless driving and speeding
violations).

23 Manuel Antonio Zurita, acting on behalf of Respondent certified: "I also certify
24 that a Corporation Background Statement (RE 212) is not needed for any officers or person
25 owning or controlling more than ten percent of the corporation shares including myself."

26 ///

27 ///

Effective September 28, 2007, in Case No. H-4836 SAC before the State of California Department of Real Estate, the application of Venegas for a conditional real estate salesperson license was denied, granting the right to a restricted real estate salesperson license, for violation of Sections 480(a), 480(c), 10177(a), and 10177(b) of the Code.

Respondent's failure to submit a completed Corporation Background Statement revealing the license discipline set forth above constitutes the procurement of 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 license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

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 licenses to Respondents, and for such other and further relief as may be proper in the premises.


TRICIA SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 12th day of October, 2009.