

1 I have considered Respondent's petition and the
2 evidence submitted in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that he meets the requirements of law for the
5 issuance to him of an unrestricted real estate salesperson
6 license and that it would not be against the public interest to
7 issue said license to him.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for removal of restrictions is granted and that a real
10 estate salesperson license be issued to him subject to the
11 following understanding and conditions:

12 1. The license issued pursuant to this Order shall
13 be deemed to be the first renewal of Respondent's real estate
14 salesperson license for the purpose of applying the provisions
15 of Section 10153.4.

16 2. Within nine (9) months from the date of this Order
17 Respondent shall:

18 (a) Submit a completed application and pay the
19 appropriate fee for a real estate salesperson
20 license, and

21 (b) Submit evidence of having taken and
22 successfully completed the courses specified
23 in subdivisions (a) (1), (2), (3), and (4) of
24 Section 10170.5 of the Real Estate Law for
25 renewal of a real estate license.

26 3. Upon renewal of the license issued pursuant to this
27 Order, Respondent shall submit evidence of having taken and

1 successfully completed the continuing education requirements of
2 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
3 real estate license.

4 This Order shall become effective immediately.

5 DATED: July 7, 2003
6

7 PAULA REDDISH ZINNEBANN
8 Real Estate Commissioner
9

10 Paula Reddish Zinnemann
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789

FILED
JAN - 3 2001

DEPARTMENT OF REAL ESTATE

By *Lucie P. Zan*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)	DRE No. H-7855 SF
12 RAMIRO PRADO, JR.,)	OAH No. N-2000080118
13 Respondent.)	<u>STIPULATION AND WAIVER</u>
14 _____)	

15 It is hereby stipulated by Respondent RAMIRO PRADO, JR.,
16 (hereinafter "Respondent") as follows:

17 1. Respondent affirms that Respondent has applied to
18 the Department of Real Estate for a real estate salesperson
19 license, and that to the best of Respondent's knowledge Respondent
20 has satisfied all of the statutory requirements for the issuance
21 of the license, including the payment of the fee therefor.

22 2. Respondent acknowledges that Respondent has
23 received and read the Statement of Issues and the Statement to
24 Respondent filed by the Department of Real Estate on July 21, 2000
25 in connection with Respondent's application for a real estate
26 salesperson license. Hearing on the Statement of Issues was held

27 DRE No. H-7855 SF

RAMIRO PRADO, JR.

1 before an Administrative Law Judge of the Office of Administrative
2 Hearings on September 27, 2000. On October 23, 2000, the
3 Administrative Law Judge issued a Proposed Decision sustaining the
4 allegations of the Statement of Issues. On November 14, 2000, the
5 Real Estate Commissioner rejected the Proposed Decision, and on
6 November 22, 2000, notice to Respondent was filed and duly served
7 that the Proposed Decision is not adopted as the Decision of the
8 Real Estate Commissioner. Respondent understands that the Real
9 Estate Commissioner held the hearing on this Statement of Issues
10 for the purpose of requiring further proof of Respondent's honesty
11 and truthfulness and to prove other allegations therein, but that
12 the Real Estate Commissioner may in her discretion waive further
13 proceedings on the Statement of Issues and grant Respondent a
14 restricted real estate salesperson license based upon this
15 Stipulation and Waiver. Respondent also understands that by filing
16 the Statement of Issues in this matter the Real Estate
17 Commissioner has shifted the burden to Respondent to make a
18 satisfactory showing that Respondent meets all the requirements
19 for issuance of a real estate salesperson license. Respondent
20 further understands that by entering into this Stipulation and
21 Waiver Respondent is stipulating that the Real Estate Commissioner
22 has found that Respondent has failed to make such a showing,
23 thereby justifying the denial of the issuance to Respondent of an
24 unrestricted real estate salesperson license.

25 3. Respondent hereby admits that the allegation of the
26 Statement of Issues filed against Respondent are true and correct.

27 DRE No. H-7855 SF

RAMIRO PRADO, JR.

1 4. Respondent requests that the Real Estate
2 Commissioner in her discretion issue a restricted real estate
3 salesperson license to Respondent under the authority of Section
4 10156.5 of the Business and Professions Code. Respondent
5 understands that any such restricted license will be issued
6 subject to and be limited by Section 10153.4 of the Business and
7 Professions Code.

8 5. Respondent is aware that by signing this
9 Stipulation and Waiver, Respondent is waiving Respondent's right
10 to further proceedings on the Statement of Issues in order to
11 obtain an unrestricted real estate salesperson license if this
12 Stipulation and Waiver is accepted by the Real Estate
13 Commissioner. However, Respondent is not waiving Respondent's
14 right to further proceedings on the Statement of Issues to obtain
15 a restricted or unrestricted license if this Stipulation and
16 Waiver is not accepted by the Real Estate Commissioner.

17 6. Respondent further understands that the following
18 conditions, limitations and restrictions will attach to a
19 restricted license issued by the Department of Real Estate
20 pursuant hereto:

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

27 DRE No. H-7855 SF

RAMIRO PRADO, JR.

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

5 b. The receipt of evidence that Respondent has
6 violated provisions of the California Real Estate
7 Law, the Subdivided Lands Law, Regulations of the
8 Real Estate Commissioner or conditions attaching to
9 this restricted license.

10 2. Respondent shall not be eligible to apply for the
11 issuance of an unrestricted real estate license nor the
12 removal of any of the conditions, limitations or
13 restrictions attaching to the restricted license until
14 two (2) years have elapsed from the date of issuance of
15 the restricted license to Respondent.

16 3. With the application for license, or with the
17 application for transfer to a new employing broker,
18 Respondent shall submit a statement signed by the
19 prospective employing broker on a form approved by the
20 Department of Real Estate wherein the employing broker
21 shall certify as follows:

22 a. That broker has read the Statement of Issues
23 which is the basis for the issuance of the
24 restricted license; and

25 b. That broker will carefully review all
26 transaction documents prepared by the restricted
27

1 licensee and otherwise exercise close supervision
2 over the licensee's performance of acts for which a
3 license is required.

4 4. Respondent's restricted real estate salesperson
5 license is issued subject to the requirements of Section
6 10153.4 of the Business and Professions Code, to wit:
7 Respondent shall, within eighteen (18) months of the
8 issuance of the restricted license, submit evidence
9 satisfactory to the Commissioner of successful
10 completion, at an accredited institution, of two of the
11 courses listed in Section 10153.2, other than real
12 estate principles, advanced legal aspects of real
13 estate, advanced real estate finance or advanced real
14 estate appraisal. If Respondent fails to timely present
15 to the Department satisfactory evidence of successful
16 completion of the two required courses, the restricted
17 license shall be automatically suspended effective
18 eighteen (18) months after the date of its issuance.
19 Said suspension shall not be lifted unless, prior to the
20 expiration of the restricted license, Respondent has
21 submitted the required evidence of course completion and
22 the Commissioner has given written notice to the
23 Respondent of lifting of the suspension.

24 ///

25 ///

26 ///

license.

Nov. 30th 2000
DATED

Ramiro Prado, Jr.
RAMIRO PRADO, JR.
Respondent

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

///

- 6 -

1 Therefore, IT IS HEREBY ORDERED that a restricted real
2 estate salesperson license be issued to Respondent RAMIRO PRADO,
3 JR. if Respondent has otherwise fulfilled all of the statutory
4 requirements for licensure. The restricted license shall be
5 limited, conditioned and restricted as specified in the foregoing
6 Stipulation and Waiver.

7 This Order is effective immediately.

8 DATED THIS 31st day of December, 2000.

9
10 PAULA REDDISH ZINNEMANN
11 Real Estate Commissioner

12 *Paula Reddish Zinnemann*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

NOV 22 2000

DEPARTMENT OF REAL ESTATE

By Laurie L. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)

RAMIRO PRADO, JR.,)

Respondent.)

No. H-7855 SF

N-2000080118

NOTICE

TO: Respondent RAMIRO PRADO, JR.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 23, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated, October 23, 2000, 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 September 27, 2000, and any written argument hereafter submitted on behalf of Respondent and Complainant.

1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of September 27, 2000, at the Sacramento
4 office of the Department of Real Estate unless an extension of
5 the time is granted for good cause shown.

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

11 DATED: November 14, 2000

12
13 PAULA REDDISH ZINNEMANN
14 Real Estate Commissioner

15 *Paula Reddish Zinnemann*
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

RAMIRO PRADO, JR.,

Respondent.

Case No. H-7855 SF

OAH No. N 2000080118

PROPOSED DECISION

This matter was heard before Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, in Oakland, California on September 27, 2000.

James L. Beaver, Real Estate Counsel, represented the Department of Real Estate.

Respondent was present and represented himself.

Evidence was received and the matter was submitted on September 27, 2000.

FACTUAL FINDINGS

1. Les R. Bettencourt filed the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner for the Department of Real Estate ("Department"), State of California.

2. On September 3, 1999, Ramiro Prado, Jr. ("Respondent") filed an application with the Department for licensure as a real estate salesperson.

3. On April 18, 1995, in the Superior Court of San Benito County Respondent was convicted by his plea of nolo contendere of three violations of the Health and Safety Code: 11351 (possession for sale of cocaine), 11350(a) (possession of cocaine) and 11550 (under the influence of cocaine).

The conviction of Health and Safety Code 11351 is substantially related to real estate sales, in that it is a crime of moral turpitude.

As a result, Respondent was sentenced to state prison for four years. The sentence was suspended and Respondent was placed on probation for a period of five years pursuant to the standard and following special terms and conditions: serve ninety days in the county jail, attend Alcoholics Anonymous/Narcotics Anonymous twice each week, pay assorted fines and fees totaling approximately \$3,060.00.

4. The facts and circumstances surrounding the conviction are as follows: Police responded to a party that Respondent was attending. He was believed to be under the influence of drugs and arrested. He was searched and two baggies containing cocaine were found in his pocket. His car was searched and a jacket was found on the driver's right rear floorboard. Drug paraphernalia and twenty-two small baggies each containing cocaine were found in the jacket.

5. On June 8, 1999, in the San Benito County Superior Court, the Court granted Respondent's motion for early termination of probation and dismissal pursuant to Penal Code section 1203.4. Consequently, his plea of guilty was withdrawn, a plea of not guilty was entered and the accusatory pleading dismissed.

6. Respondent testified that his convictions resulted from bad choices he made while attending a party. Also attending the party was a cousin whom he knew to deal in cocaine. He used cocaine during the evening and transported the cousin and others in his car. During the drive they used cocaine. Respondent testified that the jacket containing the paraphernalia and baggies belonged to his cousin, but he could not prove it. He therefore pled guilty to the charges, feeling that he would be resolved not to get into trouble again.

He served the jail sentence on home detention. He was tested for drugs while on probation and his house searched. He lived with his parents at the time, and the searches were an embarrassment. This triggered his petition for early termination of probation and expungement.

7. Respondent is currently 29 years of age. His parents were farm workers and he is a high school graduate. He has been employed as a bookkeeper since 1995. His field has been produce accounting and he has worked for Classic Salads in Hollister since February. Previously he worked for Pacific Blue Ribbon. He purchased his own home in 1997.

Respondent has always been interested in real estate, specifically in how houses are bought and sold. He took classes at Gavilan Junior College and passed the exams. He has interviewed with a Coldwell Banker office that is willing to hire him if he is licensed.

8. Respondent testified that he was offered a restricted license, but refused it. He feels the conviction was not his fault to begin with. His whole career has been dealing with money, he has done accounting for the past eight years and there has never been a problem.

LEGAL CONCLUSIONS

1. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code sections 480(a) and 10177(b) by reason of the matters set forth in Findings 3 and 4.

2. Respondent admitted a serious felony involving moral turpitude and the public interest requires real estate salespersons to be honest and trustworthy. However, the evidence was sufficient to support a conclusion that the incident that gave rise to the conviction was an aberration in an otherwise law-abiding life. Given the totality of the circumstances, including Respondent's testimony, it appears that the public will be sufficiently protected by the issuance of a restricted license to Respondent. If Respondent completes the term of restriction successfully, he will be granted an unrestricted license.

ORDER

Respondent Ramiro Prado, Jr.'s application for a real estate salesperson license is denied; however, a restricted real estate salesperson license shall be issued to Respondent pursuant to section 10156 of the Business and Professions Code. The restricted license issued to the 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:

1. 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

NOT ADOPTED

- b. The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. Respondent shall 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 one year has elapsed from the date of issuance of the restricted license to Respondent.
3. 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 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.
4. 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 two of the courses listed in section 10153.2, other than real estate principles, advanced aspects of real estate, advanced real estate finance or 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.

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: October 23, 2000

A handwritten signature in cursive script, appearing to read "Mary-Margaret Anderson", written over a horizontal line.

MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

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

FILED

AUG - 1 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

RAMIRO PRADO, JR.,

Case No. H-7855 SF

OAH No. _____

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, the Elihu Harris State Building,
1515 Clay Street, Suite 206, Oakland, CA 94612

on Wednesday, September 27, 2000, at the hour of 2:30 PM,
or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place
of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within
ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

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

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

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

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

DEPARTMENT OF REAL ESTATE

Dated: August 1, 2000

By

JAMES L. BEVER

Counsel

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED

JUL 21 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 RAMIRO PRADO, JR.,)
13 Respondent.)

No. H-7855 SF

STATEMENT OF ISSUES

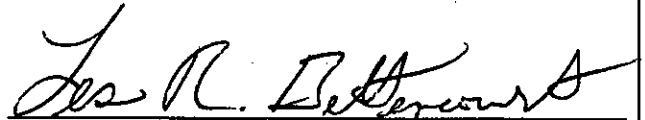
14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against RAMIRO PRADO, JR. aka Ramiro Torres Prado
18 (hereinafter "Respondent") alleges as follows:

19 I

20 Respondent, pursuant to the provisions of Section
21 10153.3 of the Business and Professions Code, made application
22 to the Department of Real Estate of the State of California for
23 a real estate salesperson license on or about September 3, 1999
24 with the knowledge and understanding that any license issued as
25 a result of said application would be subject to the conditions
26 of Section 10153.4 of the Business and Professions Code.

27 ///

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

7
8 

9 LES R. BETTENCOURT
 Deputy Real Estate Commissioner

10 Dated at Oakland, California,
11 this 17th day of July, 2000.