

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

4 Telephone: (916) 227-0789

FILED  
FEB 23 2004

DEPARTMENT OF REAL ESTATE

By Thomas C. Lasken

7 DEPARTMENT OF REAL ESTATE

8 State of California

9 *In the Matter of the Application of* ) NO. H-8519 SF  
10 JOSEPH JOHN PUGLIESE, )  
11 Respondent )  
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STIPULATION AND WAIVER

12 It is hereby stipulated by and between JOSEPH JOHN PUGLIESE (hereinafter  
13 "Respondent") and Respondent's attorney, Thomas C. Lasken, and the Complainant, acting by and through  
14 Larry A. Alamao, Counsel for the Department of Real Estate, as follows for the purpose of settling and  
15 disposing of the Statement of Issues filed on September 5, 2003, in this matter:

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

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

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

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

- 14 1. The license shall not confer any property right in the privileges to be exercised  
15 including the right of renewal, and the Real Estate Commissioner may by appropriate  
16 order suspend the right to exercise any privileges granted under this restricted license  
17 in the event of:
  - 18 a. The conviction of Respondent (including a plea of nolo contendere) to a crime  
19 which bears a substantial relationship to Respondent's fitness or capacity as a  
20 real estate licensee; or
  - 21 b. The receipt of evidence that Respondent has violated provisions of the California  
22 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate  
23 Commissioner, or conditions attaching to this restricted license.
- 24 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate  
25 license nor the removal of any of the conditions, limitations or restrictions attaching to  
26 the restricted license until two years have elapsed from the date of issuance of the  
27 restricted license to Respondent.

- 1                   3.   With the application for license, or with the application for transfer to a new  
2                    employing broker, Respondent shall submit a statement signed by the prospective  
3                    employing broker on a form approved by the Department of Real Estate wherein the  
4                    employing broker shall certify as follows:
- 5                    a.   That broker has read the Statement of Issues which is the basis for the issuance  
6                         of the restricted license; and
- 7                    b.   That broker will carefully review all transaction documents prepared by the  
8                         restricted licensee and otherwise exercise close supervision over the licensee's  
9                         performance of acts for which a license is required.
- 10                  4.   Respondent's restricted real estate salesperson license is issued subject to the  
11                    requirements of Section 10153.4 of the Business and Professions Code, to wit:  
12                    Respondent is required, within eighteen (18) months of the issuance of the restricted  
13                    license, to submit evidence satisfactory to the Commissioner of successful completion,  
14                    at an accredited institution, of two of the courses listed in Section 10153.2, other than  
15                    real estate principles, advanced legal aspects of real estate, advanced real estate  
16                    finance, or advanced real estate appraisal. If Respondent fails to timely present to the  
17                    Department satisfactory evidence of successful completion of the two required  
18                    courses, the restricted license shall be automatically suspended effective eighteen (18)  
19                    months after the date of its issuance. Said suspension shall not be lifted unless, prior  
20                    to the expiration of the restricted license, Respondent has submitted the required  
21                    evidence of course completion and the Commissioner has given written notice to  
22                    Respondent of the lifting of the suspension.
- 23                  5.   Pursuant to Section 10154, if Respondent has not satisfied the requirements for an  
24                    unqualified license under Section 10153.4, Respondent shall not be entitled to renew  
25                    the restricted license, and shall not be entitled to the issuance of another license which  
26                    is subject to Section 10153.4 until four years after the date of the issuance of the  
27                    preceding restricted license.

1  
2 2/03/04

3 Dated

Larry Alamao  
LARRY A. ALMAO, Counsel, Department of Real Estate

4 \* \* \*

5 I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are  
6 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me  
7 by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509,  
8 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights,  
9 including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine  
10 witnesses against me and to present evidence in defense and mitigation of the charges.

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

17  
18 1/20/04

19 Dated

Joseph John Pugliese  
JOSEPH JOHN PUGLIESE, Respondent

20 I have reviewed the Stipulation and Waiver as to form and content and have advised my  
21 client accordingly.

22  
23 January 12, 2004

24 Dated

Thomas C. Lasken  
THOMAS C. LASKEN, Attorney for Respondent

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26 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver  
27 signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the

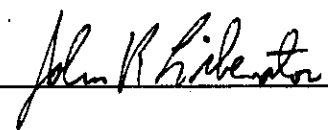
1 honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public  
2 interest to issue a restricted real estate salesperson license to Respondent.

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

7 This Order is effective immediately.

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9 IT IS SO ORDERED - February 11, 2004

10 JOHN R. LIBERATOR  
11 Chief Deputy Commissioner

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FILED  
NOV 17 2003

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

DEPARTMENT OF REAL ESTATE

By *Kathleen Centeno*

*In the Matter of the Application of*

JOSEPH JOHN PUGLIESE,

*Respondent*

}

Case No. H-8519 SF

OAH No.

**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

**OFFICE OF ADMINISTRATIVE HEARING  
THE ELIHU HARRIS STATE BUILDING  
1515 CLAY STREET, SUITE 206  
OAKLAND, CALIFORNIA 94612**

on **JANUARY 6, 2004**, at the hour of **1:30 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 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 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:* NOVEMBER 17, 2003

By *Larry Alamao*  
LARRY A. ALAMA, Counsel

1 DEIDRE L. JOHNSON, Counsel  
SBN 66322  
2 Department of Real Estate  
P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
SEP - 5 2003

DEPARTMENT OF REAL ESTATE

*Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 JOSEPH JOHN PUGLIESE, ) NO. H-8519 SF  
13 Respondent. ) STATEMENT OF ISSUES  
14 )

15 The Complainant, LES R. BETTENCOURT, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Statement of Issues against JOSEPH JOHN PUGLIESE, alleges as  
18 follows:

19 I

20 JOSEPH JOHN PUGLIESE (hereafter Respondent), pursuant  
21 to the provisions of Section 10153.3 of the Business and  
22 Professions Code, made application to the Department of Real  
23 Estate of the State of California for a real estate salesperson  
24 license on or about February 13, 2002, with the knowledge and  
25 understanding that any license issued as a result of said  
26 application would be subject to the conditions of Section 10153.4  
27 of the Business and Professions Code.

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II

The Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "Yes," and disclosed a conviction in Marin County in 1999, deemed to be the matter in aggravation alleged in Paragraph IX. Respondent failed to disclose the convictions alleged in Paragraphs IV, V, and VI below.

IV

On or about December 10, 1992, in the Municipal Court of California, County of Orange, Respondent was convicted of violation of Penal Code Section 602(j) (TRESPASS), a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

On or about July 1, 1991, in the Municipal Court of California, County of San Diego, Respondent was convicted of violation of Vehicle Code Section 14601.1(a) (DRIVING WITH A SUSPENDED LICENSE), a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

1 VI

2 On or about April 29, 1988, in the Municipal Court of  
3 California, County of San Diego, Respondent was convicted of  
4 violation of Penal Code Section 415 (OFFENSIVE WORDS LIKELY TO  
5 PROVOKE VIOLENT REACTION), a crime involving moral turpitude,  
6 and/or a crime which bears a substantial relationship under  
7 Section 2910, Title 10, California Code of Regulations, to  
8 the qualifications, functions or duties of a real estate  
9 licensee.

10 VII

11 Respondent's failure in the application for licensure  
12 to disclose the convictions alleged in Paragraphs IV, V, and VI  
13 above constitutes the attempt to procure a real estate license  
14 by fraud, misrepresentation or deceit; and/or by making material  
15 misstatements of fact in said application; and/or by knowingly  
16 making false statements in said application, which is cause for  
17 denial of Respondent's application for a real estate license  
18 under Sections 480(c) and 10177(a) of the Business and  
19 Professions Code.

20 VIII

21 The crimes of which Respondent was convicted as alleged  
22 in Paragraphs IV, V, and VI above constitute cause, jointly  
23 and/or severally, for denial of Respondent's application for a  
24 real estate license under Sections 480(a) and/or 10177(b) of the  
25 California Business and Professions Code.

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IX

MATTER IN AGGRAVATION

On or about March 29, 2000, in the Superior Court of the State of California, County of Marin, Respondent pled guilty to a violation of California Health and Safety Code Section 11550(a) (USE AND BE UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE), a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910 of Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee. On or about March 29, 2000, prosecution of Respondent was thereafter ordered diverted on terms and conditions of probation and treatment. On or about April 2, 2003, Respondent's Diversion was terminated and the charges were dismissed.

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 salesperson license to Respondent, and for such other and further relief as may be proper in the premises.

  
LES R. BETTENCOURT  
Deputy Real Estate Commissioner

Dated at Oakland, California  
this 3rd day of September, 2003