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FILED
FEB 04 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JULIO ALONSO ROMO,)	No. H-8841 SF
Respondent.)	N-2004080489

ORDER STAYING EFFECTIVE DATE

On January 6, 2005, a Decision was rendered in the above-entitled matter to become effective February 8, 2005.

On February 4, 2005, Respondent petitioned for reconsideration of the Decision of January 6, 2005.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed for a period of ten (10) days. The Decision of January 6, 2005, shall become effective at 12 o'clock noon on February 18, 2005.

DATED: February 4, 2005.

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 19 2005

DEPARTMENT OF REAL ESTATE

By S. E. J.

* * *

In the Matter of the Application of)
JULIO ALONSO ROMO,)
Respondent.)

NO. H-8841 SF
OAH No. N2004080489

DECISION

The Proposed Decision dated December 17, 2004, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon

on FEBRUARY 8, 2005.

IT IS SO ORDERED 16 2005.

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

JULIO ALONSO ROMO,

Respondent.

No. H-8841 SF

OAH No. N 2004080489

PROPOSED DECISION

On November 4, 2004, in Oakland, California, Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California ("OAH"), heard this matter.

Michael B. Rich, Counsel, represented Complainant.

J. Anne Rawlins, Attorney at Law, 1007-7th Street, Suite 300, Sacramento, California 95814, represented Respondent Julio Alonso Romo, who appeared at the hearing of this matter.

On November 4, 2004, the parties submitted the matter and the record closed.

FACTUAL FINDINGS

1. On July 19, 2004, Complainant Les R. Bettencourt, in his official capacity as a Deputy Real Estate Commissioner of the State of California, made the Statement of Issues against Respondent Julio Alonso Romo ("Respondent").

2. On August 18, 2003, Respondent signed an application for licensure as a real estate salesperson. On August 25, 2003, the Department of Real Estate ("Department") received Respondent's application for a real estate salesperson license.

The license has not issued as the application remains pending until the disposition of the instant administrative adjudication.

Record of Criminal Conviction

March 2002 Conviction

3. On March 20, 2002, in case number C9915835, the California Superior Court for the County of Santa Clara convicted Respondent, on his plea of nolo

contendere, of violating California Vehicle Code sections 12500, subdivision (a) (Unlawful Operation of a Motor Vehicle Without a Driver's License) and 20002, subdivision (a) (Abandoning Scene of Automobile Accident Causing Property Damage Without Leaving Identity to Owner of Property), misdemeanors.

4. Under the circumstances of Respondent's unlawful acts that led to the conviction on March 20, 2002, the crimes of (i) driving without a driver's license and (ii) leaving the scene of an automobile accident without providing identity to the owner of damaged property are crimes involving moral turpitude that bear a substantial relationship to qualifications, functions or duties of a real estate licensee.

5. The facts and circumstances of the criminal acts that led to Respondent's March 2002 conviction involve Respondent's acts on November 14, 1998.

On that Saturday evening, when he had a suspended driver's license, Respondent drove his sister/brother-in-law's large Ford van on city streets of San Jose, California. The van, as driven by Respondent, rear-ended the victim's vehicle moments after the victim's vehicle stopped for a red light. The force of the crash caused major damage to the rear-end of the victim's vehicle. Respondent drove the van around the victim's vehicle, then momentarily stopped the van to observe that minor damage appeared on the front-end of his brother-in-law's van. At the scene Respondent noted the other vehicle carried passengers. But, after the violent collision, Respondent sped away from the accident scene without providing his personal identification or any insurance information for the Ford van to the victim-driver and passengers in the other car.

An eyewitness to the collision informed police that before the collision, Respondent's van was traveling about 50 mph. Respondent's vehicle sped away from the scene within a short time of the collision.

Because the van's front license plate fell off after the collision, investigating police discovered Respondent's identity.

6. As a consequence of the March 2002 conviction, the superior court suspended imposition of sentencing Respondent and placed him on court (informal) probation for three years. The probation included a term that required Respondent to complete 70 hours of community service. And, the court commanded Respondent to pay more than \$600 in fines and court fees; but, the court allowed Respondent to commence payment of the fees at \$35 per month beginning May 1, 2002.

False and Misleading Data in Application for Licensure with Department of Insurance

7. On August 2, 2002, under penalty of perjury that all answers and statements given by him were true and correct, Respondent signed an application with the California Department of Insurance for licensure as a motor club agent. In response

to a question in the application of Department of Insurance for licensure as a motor club agent regarding whether or not he had ever been convicted of a crime, Respondent failed to disclose the conviction he had experienced on March 20, 2002.

The Department of Insurance had licensed Respondent as a motor club agent since September 26, 2002. Also, the Department of Insurance had issued Respondent a life agent license on or about March 25, 2002.

8. Effective on January 22, 2003, in case number LBB 0972-AP (AR), the California Department of Insurance revoked Respondent's motor club agent license and his life agent license.

The Department of Insurance gave Respondent notice of charges, an opportunity for an evidentiary hearing and other due process protections under Chapter 5 of the California Government Code (Formal Administrative Adjudication). The decision of the Department of Insurance, which adopted the proposed decision of an administrative law judge of the California Office of Administrative Hearings, grounded the denial of licensure upon violation of California Insurance Code section 1668, subdivision (h) (Knowing and Willful Misstatement in a License Application Made to the Insurance Commissioner). Moreover, the license revocation by the Department of Insurance was based upon violation of Insurance Code sections 1668, subdivision (b) (Respondent's Acts and Omissions Showed Licensing Respondent by the Department of Insurance Would Not Be in The Public Interest), and 1668, subdivision (e) (Licensure of Respondent by the Department of Insurance Would Be Improper Because Respondent Lacked Integrity.)

9. Respondent's acts that gave rise to the administrative action by the Department of Insurance, if done by a real estate licensee, would be grounds for revocation or suspension of a California real estate license.

10. The revocation of Respondent's life agent license and motor club agent license constitute cause for denial of Respondent's application for a real estate license.

11. Respondent's conduct in making false statements on an application for licensure with the Department of Insurance constituted fraud or dishonest dealing.

12. In filing a false application for licensure with the Department of Insurance, Respondent's acts involved dishonesty, fraud or deceit with the intent to substantially benefit himself.

Matters in Mitigation

13. At the time of the automobile collision that led to the conviction, Respondent was 18 years old. He was a high school senior, who was bound for college at San Jose State University.

14. In 2002, Respondent graduated from San Jose State University. He earned a degree in Business Administration, and he completed sufficient courses to receive a minor in Economics.

Respondent completed the required number of courses to graduate over a four year period of enrollment from 1998 to 2002.

15. While in college, Respondent participated in collegiate boxing competition. He claimed that the medal won by him in a national boxing tournament was the first such award secured by a San Jose State University boxer in more than 41 years.

16. Respondent persuasively stated that during his college years, he contributed time to train at-risk youth in boxing methods.

17. Respondent applied for licensure as an insurance licensee when he was a senior at San Jose State University. He attempted the insurance licensee route upon the advice of a college counselor.

Respondent claimed that he did not include on the application for licensure with the Department of Insurance any information regarding his conviction in 2002 because he thought he had only a record for a traffic citation that he did not have a duty to disclose on the application for licensure.

18. Respondent declared that other than the 2002 conviction for the Vehicle Code offenses in November 1998, he has no other criminal convictions.

Matters in Rehabilitation

19. Although the term of probation from the March 2002 conviction has not expired, Respondent has satisfied the terms of conditions including payment of court fines and fees. Respondent's term of probation may expire about four months after the hearing date of this matter.

20. Respondent secured his college degree in June 2002, which was on a date about three months after the criminal conviction against him.

21. Respondent is now 24 years old. He appears to be a mature and intelligent young man.

22. Respondent has been married for two years. He has a daughter, who is one-year of age.

Respondent benefits from stability in his personal life as provided by his marriage obligation and being a parent of a dependent child.

23. Since graduating from college, Respondent has pursued gainful employment.

In July 2002, Beneficial Finance hired Respondent as an account executive. One year later in August 2003, E-loan Company hired Respondent as a loan consultant or national loan officer. In about August 2004, Peoples' Choice Home Loans hired Respondent into the position of branch manager, which he continues to hold.

24. Respondent has been a member of Christ the King Catholic Church, which is located in San Jose for about two years. While in college, Respondent attended Saint Joseph Church.

As part of church activities, Respondent was a leader in the Biblical Financial Ministry. He led small group seminars that taught management skills regarding individual financial matters.

25. Respondent has gained the support and respect of various community members who provided the record with five letters or statements¹ on behalf of Respondent.

26. Respondent believes that he knows a real estate broker who will hire him after he secures licensed status.

Witness in Support of Rehabilitation

27. Mr. David Lawrence Luchini appeared at the hearing on behalf of Respondent

Mr. Luchini is the regional sales manager for People's Choice Home Loans.

¹ Respondent offered letters and statements under Government Code section 11513, subdivision (d) as follows: letter, dated October 29, 2004, by Rich Hernandez of Capital Pacific Mortgage Co.; letter, dated October 25, 2004, by Anthony Vu, broker, Home Suite Homes Mortgage; letter, dated November 2, 2004, by Fr. Robert Brocato, Christ the King Catholic Church; statement, dated October 27, 2004, by Manual Hernandez; letter, telefaxed November 3, 2004, by Robyn Fisher, President RT Fisher & Associates, an education consulting firm.

Mr. Luchini has known Respondent since about August 2003, when Respondent worked at E-loans while Mr. Luchini was the sales manager.

Mr. Luchini views Respondent as being responsible, hard working, diligent towards duties of his employment and entirely trustworthy.

But, Mr. Luchini acknowledged that Respondent has told him very little about the circumstances of his misconduct in November 1998 that led to the conviction. Also, Mr. Luchini expressed at the hearing that Respondent had told him nothing about the Department of Insurance's action to revoke licenses that had been issued to Respondent by that California licensing agency.

Matters in Aggravation

28. When Respondent became involved in the November 1998 hit-and-run traffic collision, he did not possess a valid drivers' license.

29. About one day after the collision in November 1998, police issued a citation for violation of misdemeanors². But, Respondent ignored the legal requirement that he appear in court for the criminal offenses. On an excuse of being busy as a college student, Respondent did not make an initial court appearance until mid-2002.

30. At the time of the violent hit-and-run collision, Respondent did not go to the assistance of passengers in the vehicle that was violently impacted by the automobile that Respondent operated in November 1998.

Matters that Negatively Impact on Respondent's Progress towards Rehabilitation

31. Respondent will remain on probation from the March 2002 conviction until about March 2005.

32. The December 2003 Department of Insurance decision on the license revocation action against Respondent resulted from his act of deceit toward the Department of Insurance. Respondent failed to be honest and candid on that agency licensure application regarding his past criminal conviction. The Department of Insurance's Accusation, dated March 17, 2003, was issued about five months before the date of Respondent's application with the Department.

33. Respondent committed the criminal acts in November 1998; however, he did not answer the criminal charges until 2002, which was a point in time when he learned that the outstanding criminal charges against him might adversely affect his

² Vehicle Code sections 14601.1, subdivision (a) (Driving When Privilege Suspended or Revoked) and 20002, subdivision (a) (Violating Duty of a Driver Involved in an Automobile Accident Causing Property Damage by Leaving One's Personal Identity With Owner of Damaged Property),

employment prospects, or career opportunities, as a recent college graduate. Respondent did not resolve that criminal charges out of a duty to obey the law or out of a sense to correct his wrong against society. Respondent is not credible that he did not fulfill his legal debt to society because he was "too busy" with college studies and participating in collegiate boxing team functions.

34. Respondent acknowledged that after the hit-and-run collision, that the insurance premiums paid by his sister and brother-in-law may have escalated. But, he expressed that he had no responsibility to repay the insurance company for the loss, or to indemnify or repay his brother-in-law and sister for their additional financial obligations

35. On October 31, 2002, Respondent completed the Department's "Confidential - Interview Information Statement" form. Respondent set out inaccurate, false or misleading responses in the statement that included "... I bumped a car.... I took off ... Later, my guilt made me come back to the scene, an officer was there and she charged [me] with hit and run." The police investigative report shows that Respondent fled the scene of a violent collision. Police never interviewed him at the accident site. Rather, due to the license plate for the van he operated having fallen off at the collision site, police interviewed the van's owners, who identified Respondent as the probable perpetrator and told him to turn himself into police.

Also, in the statement, Respondent falsely informed the Department's investigator - Robert Foreman - that the victim's vehicle did not receive "any major damage." Rather, the victim's car was struck so hard that the bumper and trunk area were pushed in about one foot. And, a victim observed Respondent's van to have proceeded at a high rate of speed so as to cause the victim's vehicle more than a "bump."

Respondent's inaccurate, false or misleading statement to the Department in a written interview information statement shows deception regarding his past recklessness towards, or disregard of, the law. Moreover, the statement was made only on October 31, 2003, and the Department received it on November 3, 2003, which is only about one year before the hearing in this matter.

36. Respondent provides no competent evidence that since the date of the March 2002 conviction he has engaged in any significant or conscientious involvement in a community, religious or privately-sponsored program designed to provide social benefits or to ameliorate social problems or ills.

Ultimate Findings

37. It would be against the public interest for respondent Julio Alonso Romo to hold a restricted license.

CONCLUSIONS OF LAW

1. Business and Professions Code section 10177, subdivision (b), establishes that the Department may deny the issuance of a license to an applicant who has "been convicted of ... a crime involving moral turpitude...."

Business and Professions Code section 480, subdivision (a)(1) provides that the Department may deny a license on the ground that the applicant has "been convicted of a crime."

Cause to deny Respondent's application for licensure as a real estate salesperson exists under Business and Professions Code sections 480, subdivision (a)(1) and 10177, subdivision (b), by reason of the matters set forth in Factual Findings 3 and 4.

2. Business and Professions Code section 10177, subdivision (f) establishes, in part, that the Commissioner may deny a license on the ground that the applicant "acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or has either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity."

Cause exists to deny issuing a license to respondent under Business and Professions Code section 10177 subdivision (f), by reason of the matters set forth in Factual Findings 8 through 10, inclusive.

3. Business and Professions Code section 10177, subdivision (j) states, in part, that the Commissioner may deny a license on the ground that the applicant has "engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing."

Cause exists to deny issuing a license to respondent under Business and Professions Code section 10177 subdivision (j), by reason of the matters set forth in Factual Findings 8 and 11.

4. Business and Professions Code section 480, subdivision (a)(2) provides that the Department may deny a license on the ground that the applicant has "done any

act involving dishonesty, fraud or deceit with the intent to substantially benefit himself
....”

Cause to deny Respondent’s application for licensure as a real estate salesperson exists under Business and Professions Code section 480, subdivision (a)(2), by reason of the matters set forth in Factual Findings 8 and 12.

5. Business and Professions Code section 480, subdivision (a)(3) provides that the Department may deny a license on the ground that the applicant has “done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”

Cause to deny Respondent’s application for licensure as a real estate salesperson exists under Business and Professions Code section 480, subdivision (a)(3), by reason of the matters set forth in Factual Findings 8 and 9.

6. Under the criteria for rehabilitation as prescribed under California Code of Regulations, title 10, section 2912, Respondent has met a majority of the criteria for rehabilitation from the criminal conviction in November 2002. But, he has not produced sufficient evidence to show requisite rehabilitation prior to gaining licensure by the Department.

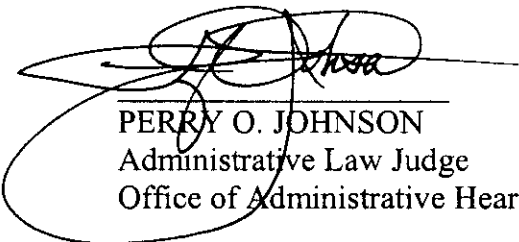
7. The facts in this matter show Respondent to have a history of evading responsibility for his acts and omissions. First, Respondent caused an automobile collision, but fled the scene. Then, after being cited by police officers for his crime, Respondent failed to appear in court to address the criminal charges for about three and one-half years after the criminal conduct. Third, Respondent failed to disclose the conviction on an application for licensure as an insurance professional. Fourth, Respondent refused to respond to the Department of Insurance’s accusation that sought revocation of the insurance licenses that had been issued to him. Fifth, Respondent has failed to take financial responsibility for the property damage caused by his criminal neglect in 1998. Sixth, Respondent gave the Department misinformation about the circumstances of his acts and omissions. Respondent seeks a license from the Department that requires character traits of integrity, honesty and conscientiousness. But, the weight of competent evidence at the hearing does not establish that Respondent has the essential qualities necessary to hold a real estate license because the evidence fails to show that Respondent has adopted a change in attitude towards respect for the law.

Respondent does not provide satisfactory and competent evidence that it would be in the public interest for the Department to issue him a real estate salesperson license, even on a restricted basis.

ORDER

The application of respondent Julio Alonso Romo for a real estate salesperson license is denied.

DATED: December 17, 2004


PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 07 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

JULIO ALONSO ROMO

} Case No. H-8841 SF
OAH No.
By Shelly Ely

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, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on THURSDAY--NOVEMBER 4, 2004, at the hour of 9:00 P.M., 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 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: SEPTEMBER 7, 2004

By Michael B. Rich
MICHAEL B. RICH, Counsel (J.E.)

1 MICHAEL B. RICH, Counsel
State Bar No. 84257
2 Department of Real Estate
P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED
AUG 08 2004

DEPARTMENT OF REAL ESTATE
by Shelley Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Application of)
12 JULIO ALONSO ROMO,) No. H-8841 SF
13 Respondent.) STATEMENT OF ISSUES

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against JULIO ALONSO ROMO (hereinafter "Respondent"), is
18 informed and alleges as follows:

I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate broker
22 license on or about August 25, 2003, with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the Business and Professions Code.

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II

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

On or about March 20, 2002, in the Superior Court, County of Santa Clara, State of California, Respondent was convicted of violating Section 12500(a) of the California Vehicle Code (Unlawful operation of a vehicle without a driver's license) (Reckless driving) and Section 20002(a) of the California Vehicle Code (Leave scene of accident causing property damage without providing identity to owner of property), crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

Effective January 22, 2003, before the Department of Insurance of the State of California, in file number LBB 0972-AP(AR) [OAH No. N-2003060540], both Respondent's life agent license and his motor club agent license were revoked for Respondent's violation of Section 1668(h) of the California Insurance Code (Knowing and willful misstatement in a license application made to the Insurance Commissioner). Said Statement of Issues was based, in part, upon Respondent's failure to disclose on his application for a motor club agent license his March 20, 2002, conviction for violating Sections 12500(a) and

1 20002(a) of the California Vehicle Code. The conviction and the
2 failure to disclose supported findings that licensing Respondent
3 would not be in the public interest pursuant to Section 1668(b)
4 of the California Insurance Code and that licensing Respondent
5 would be improper in that Respondent lacked integrity pursuant to
6 Section 1668(e) of the California Insurance Code.

7 V

8 Respondent's acts, which resulted in the proceedings
9 described in Paragraph IV, are acts, which if done by a real
10 estate licensee, would be grounds for the suspension or
11 revocation of a California Real Estate License.

12 VI

13 The revocation of Respondent's life agent license and
14 his motor club agent license and the acts described in Paragraph
15 IV, above, constitute cause for denial of Respondent's
16 application for a real estate license under Sections 480(a)(2)
17 and/or (a)(3) and 10177(f), and/or (j) of the Business and
18 Professions Code of the State of California.

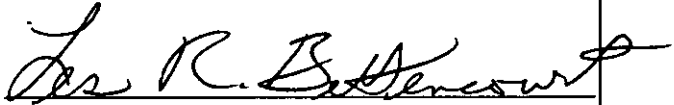
19 VII

20 The crimes of which Respondent was convicted, as
21 alleged in Paragraph III, individually and/or collectively,
22 constitute cause for denial of Respondent's application for a
23 real estate license under Sections 480(a) and/or 10177(b) of the
24 California Business and Professions Code.

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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 under other provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 19th day of July 2004.