

ORIGINAL

FILED
JUN 16 2006

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
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6
7 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE
By A. E. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) NO. H-9550 SF
12)
13 DANIEL WILLIAM CAREY,) STIPULATION AND WAIVER
14 Respondent.)
15

16 It is hereby stipulated by and between DANIEL WILLIAM
17 CAREY (hereinafter "Respondent") and the Complainant, acting by
18 and through Michael B. Rich, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the Statement of Issues filed on March 22, 2006, in this matter:

21 A. Respondent acknowledges that he has received and
22 read the Statement of Issues and the Statement to Respondent
23 filed by the Department of Real Estate in connection with his
24 application for a real estate salesperson license. Respondent
25 understands that the Real Estate Commissioner may hold a hearing
26 on this Statement of Issues for the purpose of requiring further
27 proof of Respondent's honesty and truthfulness and to prove

1 other allegations therein, or that he may in his discretion
2 waive the hearing and grant Respondent a restricted real estate
3 salesperson license based upon this Stipulation and Waiver.
4 Respondent also understands that by filing the Statement of
5 Issues in this matter the Real Estate Commissioner is shifting
6 the burden to Respondent to make a satisfactory showing that
7 Respondent meets all the requirements for issuance of a real
8 estate salesperson license. Respondent further understands that
9 by entering into this stipulation and waiver Respondent will be
10 stipulating that the Real Estate Commissioner has found that
11 Respondent has failed to make such a showing, thereby justifying
12 the denial of the issuance to Respondent of an unrestricted real
13 estate salesperson license.

14 B. Respondent hereby admits that the allegations of
15 the Statement of Issues filed against Respondent are true and
16 correct and requests that the Real Estate Commissioner in his
17 discretion issue a restricted real estate salesperson license to
18 Respondent under the authority of Section 10156.5 of the
19 Business and Professions Code. Respondent understands that any
20 such restricted license will be issued subject to and be limited
21 by Section 10153.4 of the Business and Professions Code.

22 C. Respondent is aware that by signing this
23 Stipulation and Waiver, Respondent is waiving Respondent's right
24 to a hearing and the opportunity to present evidence at the
25 hearing to establish Respondent's rehabilitation in order to
26 obtain an unrestricted real estate salesperson license if this
27 Stipulation and Waiver is accepted by the Real Estate

1 Commissioner. However, Respondent is not waiving Respondent's
2 right to a hearing and to further proceedings to obtain a
3 restricted or unrestricted license if this Stipulation and
4 Waiver is not accepted by the Commissioner.

5 D. Respondent further understands that the following
6 conditions, limitations, and restrictions will attach to a
7 restricted license issued by the Department of Real Estate
8 pursuant hereto:

9 1. The license shall not confer any property right in the
10 privileges to be exercised including the right of renewal,
11 and the Real Estate Commissioner may by appropriate order
12 suspend the right to exercise any privileges granted under
13 this restricted license in the event of:

14 a. The conviction of Respondent (including a plea of nolo
15 contendere) to a crime which bears a substantial
16 relationship to Respondent's fitness or capacity as a
17 real estate licensee; or

18 b. The receipt of evidence that Respondent has violated
19 provisions of the California Real Estate Law, the
20 Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner, or conditions attaching to this
22 restricted license.

23 2. Respondent shall not be eligible to apply for the issuance
24 of an unrestricted real estate license nor the removal of
25 any of the conditions, limitations or restrictions
26 attaching to the restricted license until four (4) years
27

1 have elapsed from the date of issuance of the restricted
2 license to Respondent.

3 3. With the application for a restricted license, or with the
4 application for transfer to a new employing broker,
5 Respondent shall submit a statement signed by the
6 prospective employing broker on a form approved by the
7 Department of Real Estate wherein the employing broker
8 shall certify as follows:

9 a. That broker has read the Statement of Issues which is
10 the basis for the issuance of the restricted license;
11 and

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

17 4. Respondent's restricted real estate salesperson license is
18 issued subject to the requirements of Section 10153.4 of
19 the Business and Professions Code, to wit: Respondent is
20 required, within eighteen (18) months of the issuance of
21 the restricted license, to submit evidence satisfactory to
22 the Commissioner of successful completion, at an
23 accredited institution, of two of the courses listed in
24 Section 10153.2, other than real estate principles,
25 advanced legal aspects of real estate, advanced real
26 estate finance, or advanced real estate appraisal. If
27 Respondent fails to timely present to the Department

1 satisfactory evidence of successful completion of the two
2 required courses, the restricted license shall be
3 automatically suspended effective eighteen (18) months
4 after the date of its issuance. Said suspension shall not
5 be lifted unless, prior to the expiration of the
6 restricted license, Respondent has submitted the required
7 evidence of course completion and the Commissioner has
8 given written notice to Respondent of the lifting of the
9 suspension.

10 5. Pursuant to Section 10154, if Respondent has not satisfied
11 the requirements for an unqualified license under Section
12 10153.4, Respondent shall not be entitled to renew the
13 restricted license, and shall not be entitled to the
14 issuance of another license which is subject to Section
15 10153.4 until four years after the date of the issuance of
16 the preceding restricted license.

17 6. Six months after the issuance of the restricted license,
18 and at six month intervals thereafter during the term of
19 any restricted license issued pursuant to this Decision,
20 Respondent shall provide proof acceptable to the Real
21 Estate Commissioner that, during the preceding six months,
22 Respondent has, each and every week, attended one or more
23 sessions of Alcoholics Anonymous, or that such attendance
24 in any week was impractical due to travel for work, the
25 illness of Respondent or a member of Respondent's family,
26 incarceration, residential treatment for substance abuse,
27 extreme personal hardship for Respondent or a member of

1 Respondent's family, or family emergency. The
2 Commissioner may suspend the restricted license issued to
3 respondent pending a hearing held in accordance with
4 Section 11500, et seq., of the Government Code, if such
5 proof is not timely submitted as provided for herein, or
6 as provided for in a subsequent agreement between the
7 Respondent and the Commissioner. The suspension shall
8 remain in effect until such proof is submitted or until
9 Respondent enters into an agreement satisfactory to the
10 Commissioner to provide such proof, or until a decision
11 providing otherwise is adopted following a hearing held
12 pursuant to this condition.

13
14
15 5/23/06
16 DATED


17 Michael B. Rich, Counsel
18 DEPARTMENT OF REAL ESTATE

19 * * *

20 I have read the Stipulation and Waiver and its terms
21 are understood by me and are agreeable and acceptable to me. I
22 understand that I am waiving rights given to me by the
23 California Administrative Procedure Act (including but not
24 limited to Sections 11506, 11508, 11509, and 11513 of the
25 Government Code), and I willingly, intelligently, and
26 voluntarily waive those rights, including the right of a hearing
27 on the Statement of Issues at which I would have the right to

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

3
4
5 DATED

5/15/06


DANIEL WILLIAM CAREY
Respondent

6
7
8 * * *

9 I have read the Statement of Issues filed herein and
10 the foregoing Stipulation and Waiver signed by Respondent. I am
11 satisfied that the hearing for the purpose of requiring further
12 proof as to the honesty and truthfulness of Respondent need not
13 be called and that it will not be inimical to the public
14 interest to issue a restricted real estate salesperson license
15 to Respondent.

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

22 This Order is effective immediately.

23 IT IS SO ORDERED 6-13, 2006.

24 JEFF DAVI
25 Real Estate Commissioner
26
27 

1 MICHAEL B. RICH, Counsel
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3 Department of Real Estate
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FILED
MAR 20 2006

DEPARTMENT OF REAL ESTATE

By A. Rich

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 DANIEL WILLIAM CAREY,) H-9550 SF
14 Respondent.) STATEMENT OF ISSUES

15
16 The Complainant, E. J. HABERER II, a Deputy Real
17 Estate Commissioner of the State of California, for Statement of
18 Issues against DANIEL WILLIAM CAREY (hereinafter "Respondent"),
19 is informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about July 30, 2004, with the knowledge and
24 understanding that any license issued as a result of said
25 application would be subject to the conditions of Section
26 10153.4 of the Business and Professions Code.

27 ///

1 II

2 Complainant, E. J. HABERER II, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity and not otherwise.

5 III

6 On or about November 24, 2003, in the Superior Court,
7 County of Contra Costa, State of California, in case number
8 280579-4, Respondent was convicted of violating Section 23152(a)
9 of the California Vehicle Code (Unlawfully driving a vehicle
10 while under the influence of alcohol), a crime involving moral
11 turpitude and/or a crime which bears a substantial relationship
12 under Section 2910, Title 10, California Code of Regulations,
13 to the qualifications, functions, or duties of a real estate
14 licensee.

15 IV

16 On or about December 5, 2003, in the Superior Court,
17 County of Marin, State of California, in case number CR131058A,
18 Respondent was convicted of violating Section 23152(a) of the
19 California Vehicle Code (Unlawfully driving a vehicle while
20 under the influence of alcohol), a crime involving moral
21 turpitude and/or a crime which bears a substantial relationship
22 under Section 2910, Title 10, California Code of Regulations,
23 to the qualifications, functions, or duties of a real estate
24 licensee.

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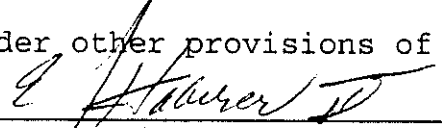
1 V

2 On or about June 1, 2005, in the Superior Court,
3 County of San Francisco, State of California, in case number
4 2102742, Respondent was convicted of violating Section 14601.5
5 of the California Vehicle Code (Knowingly driving while driver's
6 license suspended or revoked for having been convicted of
7 driving under the influence), a crime involving moral turpitude
8 and/or a crime which bears a substantial relationship under
9 Section 2910, Title 10, California Code of Regulations, to the
10 qualifications, functions, or duties of a real estate licensee.

11 VI

12 The crimes of which Respondent was convicted, as
13 alleged in Paragraphs, III, IV and V, above, individually and/or
14 collectively, constitute cause for denial of Respondent's
15 application for a real estate license under Sections 480(a)
16 and/or 10177(b) of the California Business and Professions Code.

17 WHEREFORE, the Complainant prays that the above-
18 entitled matter be set for hearing and, upon proof of the
19 charges contained herein, that the Commissioner refuse to
20 authorize the issuance of, and deny the issuance of, a real
21 estate salesperson license to Respondent, and for such other and
22 further relief as may be proper under other provisions of law.

23 
24 E. J. HABERER II
25 Deputy Real Estate Commissioner

26 Dated at Oakland, California,
27 this 9th day of March, 2006.