

FAG

**FILED**  
DEC 17 2011  
DEPARTMENT OF REAL ESTATE  
By *L. Frost*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of

IVETTE MARTINEZ,

Respondent.

No. H-9563 SF

ORDER DENYING REMOVAL OF RESTRICTIONS ON LICENSE

On August 15, 2006, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on September 14, 2006, and Respondent has operated as a restricted licensee since that time.

On May 27, 2011, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

1 I have considered Respondent's petition and the evidence and arguments in  
2 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has  
3 undergone sufficient rehabilitation to warrant the removal of the restrictions on Respondent's real  
4 estate salesperson license at this time.

5 The Department has developed criteria in Section 2911 of Title 10, California  
6 Code of Regulations ("Regulations") to assist in evaluating the rehabilitation of an applicant for  
7 issuance or reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(j) Discharge of, or bona fide efforts toward discharging,  
9 adjudicated debts or monetary obligations to others.

10 Respondent has provided no information or evidence that she has discharged her  
11 adjudicated debts and obligations to others. She has both state and federal tax liens outstanding,  
12 and a civil judgment was entered against her in August 2011 for credit card debt.

13 Given the fact that Respondent has not established that Respondent has complied  
14 with Regulations 2911(j), I am not satisfied that Respondent is sufficiently rehabilitated to  
15 receive an unrestricted salesperson license.

16 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
17 restrictions on Respondent's real estate salesperson license is denied.

18 This Order shall become effective at 12 o'clock noon on JAN 06 2012

19 DATED 12/7/11

20 BARBARA J. BIGBY  
21 Acting Real Estate Commissioner

22   
23  
24  
25  
26  
27

1 Department of Real Estate  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

FILED  
AUG 15 2006

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 *In the Matter of the Application of*

11 IVETTE MARTINEZ,

12 Respondent.

)  
) No. H- 9563 SF  
)  
)

) **STIPULATION AND WAIVER**  
)

14 It is hereby stipulated by and between IVETTE MARTINEZ (hereinafter "Respondent")  
15 and Respondent's attorney, Steven H. Bovarnick, and the Complainant, acting by and through Daniel E.  
16 Kehew, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of  
17 the Statement of Issues filed on April 3, 2006, in this matter:

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

1 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance  
2 to Respondent of an unrestricted real estate salesperson license.

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

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

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

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

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

23 b. The receipt of evidence that Respondent has violated provisions of the California  
24 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate  
25 Commissioner, or conditions attaching to this restricted license.

26 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate  
27 license nor the removal of any of the conditions, limitations or restrictions attaching to

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

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

7 a. That broker has read the Statement of Issues which is the basis for the issuance  
8 of the restricted license; and

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

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

25 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an  
26 unqualified license under Section 10153.4, Respondent shall not be entitled to renew  
27 the restricted license, and shall not be entitled to the issuance of another license which

1 is subject to Section 10153.4 until four years after the date of the issuance of the  
2 preceding restricted license.

3  
4 6/29/06

5 Dated

Daniel E. Kehew

DANIEL E. KEHEW, Counsel, Department of Real Estate

6 \* \* \*

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

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

19 7/06/06

20 Dated

Ivette Martinez  
IVETTE MARTINEZ, Respondent

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

23 7/6/06

24 Dated

Steven H. Bovarnick  
STEVEN H. BOVARNICK, Attorney for Respondent

25 \* \* \*

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

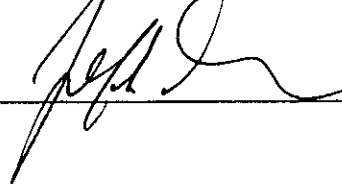
1 honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public  
2 interest to issue a restricted real estate salesperson license to Respondent.

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.

8  
9 IT IS SO ORDERED 8.15.06

10 JEFF DAVI  
11 Real Estate Commissioner

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

1 DANIEL E. KEHEW, Counsel (SBN 231550)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0425 (Direct)

FILED  
APR - 3 2006

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 IVETTE MARTINEZ, ) H-9563 SF  
13 Respondent. ) STATEMENT OF ISSUES  
14 )

15 The Complainant, CHARLES W. KOENIG, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against IVETTE MARTINEZ (hereinafter "Respondent"), also  
18 known as Ivette Fernandez, also known as Ivette Martinez Valadez,  
19 is informed and alleges as follows:

20 I

21 Complainant, CHARLES W. KOENIG, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Statement of  
23 Issues against Respondent in his official capacity.

24 II

25 Respondent made application to the Department of Real  
26 Estate of the State of California for a real estate salesperson  
27 license on or about June 16, 2005, with the knowledge and

1 understanding that any license issued as a result of said  
2 application would be subject to the conditions of Section 10153.4  
3 of the Business and Professions Code (hereinafter "Code").

4 III

5 In response to Question 11 of said application, to  
6 wit: "Have you used any other names (i.e., maiden name, AKA's,  
7 etc.)?", Respondent concealed and/or failed to disclose her  
8 prior use of the names "Ivette Fernandez" and "Ivette Martinez  
9 Valadez".

10 IV

11 In response to Question 25 of said application, to  
12 wit: "Have you ever been convicted of any violation of law?",  
13 Respondent concealed and/or failed to disclose the conviction  
14 described in Paragraph V, below.

15 V

16 On or about June 10, 2002, in the Superior Court of  
17 California, County of Santa Clara, Respondent was convicted of  
18 Assault and Battery in violation of Penal Code Sections 240/242,  
19 a misdemeanor and/or crime involving moral turpitude that bears a  
20 substantial relationship under Section 2910, Title 10, California  
21 Code of Regulations (hereinafter "Regulations"), to the  
22 qualifications, functions, or duties of a real estate licensee.

23 VI

24 Respondent's criminal conviction, described in  
25 Paragraph V above, constitutes cause for denial of Respondent's  
26 application for a real estate license under Sections 480(a) and  
27 10177(b) of the Code.

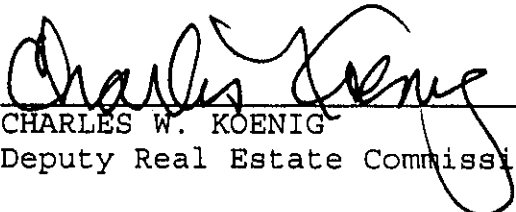
1 VII

2 Respondent's concealment and/or failure to disclose in  
3 said application the conviction set forth in Paragraph V above  
4 constitutes the procurement of a real estate license by fraud,  
5 misrepresentation, or deceit, or by making a material  
6 misstatement of fact in said application, which failure is cause  
7 for denial of Respondent's application for a real estate license  
8 under Sections 480(c) and 10177(a) of the Code.

9 VIII

10 Respondent's concealment and/or failure to disclose in  
11 said application the use of the additional names set forth in  
12 Paragraph III above constitutes the procurement of a real estate  
13 license by fraud, misrepresentation, or deceit, or by making a  
14 material misstatement of fact in said application, which failure  
15 is cause for denial of Respondent's application for a real estate  
16 license under Sections 480(c) and 10177(a) of the Code.

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

23   
24 CHARLES W. KOENIG  
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California  
27 this 27<sup>th</sup> day of March, 2006.