

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982
5 -or- (213) 576-6910 (Direct)

FILED
JUN 17 2003
DEPARTMENT OF REAL ESTATE

By Laura B. Orma

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 JAY ALEXANDER VARGAS,)
13)
14 Respondent(s).)

NO. H-29668 LA
L-2002090664

STIPULATION AND WAIVER
AND DECISION AFTER
REJECTION

15
16 I, JAY ALEXANDER VARGAS, Respondent herein,
17 acknowledge that I have received and read the Statement of
18 Issues filed by the Department of Real Estate on September 6,
19 2002, and the Statement to Respondent sent to me in connection
20 with the Statement of Issues.

21 I hereby admit that the allegations contained in the
22 Statement of Issues filed against me are true and correct and
23 constitute a basis for the denial of my real estate salesperson
24 license.

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1 I further acknowledge that the Real Estate
2 Commissioner held a hearing on this Statement of Issues on
3 March 26, 2003, before the Office of Administrative Hearings
4 for the purpose of proving the allegations therein. I was
5 present at the hearing and participated therein. Further, I
6 have had an opportunity to read and review the Proposed
7 Decision of the Administrative Law Judge.

8 I understand that pursuant to Government Code Section
9 11517(c), the Real Estate Commissioner has rejected the
10 Proposed Decision of the Administrative Law Judge. I further
11 understand that pursuant to the same Section 11517(c), the Real
12 Estate Commissioner may decide this case upon the record,
13 including the transcript, without taking any additional
14 evidence, after affording me the opportunity to present written
15 argument to the Real Estate Commissioner.

16 I further understand that by signing this Stipulation
17 and Waiver, I am waiving my right to obtain a dismissal of the
18 Statement of Issues through proceedings under Government Code
19 Section 11517(c) if this Stipulation and Waiver is accepted by
20 the Real Estate Commissioner. However, I also understand that
21 I am not waiving my rights to further proceedings to obtain a
22 dismissal of the Statement of Issues if this Stipulation and
23 Waiver is not accepted by the Real Estate Commissioner.

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1 I hereby request that the Real Estate Commissioner in
2 her discretion deny my application for a real estate
3 salesperson license and issue to me a restricted real estate
4 salesperson license under the authority of Section 10156.5 of
5 the Business and Professions Code if I make application
6 therefor and pay to the Department of Real Estate the
7 appropriate fee for said license within 90 days from the
8 effective date of the Decision herein.

9 I further understand that the restricted license
10 shall be subject to the provisions of Section 10156.7 of the
11 Business and Professions Code and the following conditions,
12 limitations and restrictions will attach to the restricted
13 license issued by the Department of Real Estate.

14 By reason of the foregoing and solely for the purpose
15 of settlement of the Statement of Issues without further
16 administrative proceedings, it is stipulated and agreed that
17 the Commissioner shall adopt the following Order:

18 ORDER

19 Respondent's application for a real estate license is
20 denied; provided, however, a restricted real estate salesperson
21 license shall be issued to Respondent pursuant to Section
22 10156.5 of the Code. The restricted license issued to the
23 Respondent shall be subject to all of the provisions of Section
24 10156.7 of the Code and to the following limitations,
25 conditions and restrictions imposed under authority of Section
26 10156.6 of said Code.

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1. The restricted 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) to a crime which
is substantially related to Respondent's
fitness or capacity as a real estate
licensee; or

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
for the removal of any of the conditions,
limitations or restrictions attaching to the
restricted license until two years have elapsed
from the date of issuance of the restricted license
to Respondent.

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

7 a. That the employing broker has read the Decision
8 which is the basis for the issuance of the
9 restricted license; and

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

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

5. 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: 6/4/03

CHRIS LEONG
CHRIS LEONG, Counsel
Department of Real Estate

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I have read the Stipulation and Waiver, and its terms are understood by me and are agreeable and acceptable to me.

DATED: June 02, 2003 Jay Alexander Vargas
JAY ALEXANDER VARGAS, Respondent
* * *

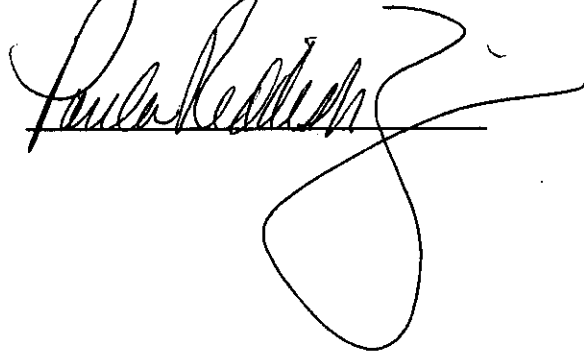
I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

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

This Order shall become effective on July 7, 2003.

IT IS SO ORDERED June 12, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



Sacto Day

FILED
MAY 15 2003
DEPARTMENT OF REAL ESTATE
Terma B. Stone

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

In the Matter of the Application of)	
JAY ALEXANDER VARGAS,)	No. H-29668 LA
Respondent.)	L-2002090664

NOTICE

TO: JAY ALEXANDER VARGAS, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated April 11, 2003, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated April 11, 2003, 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 March 26, 2003, and any written argument hereafter submitted on behalf of Respondent and Complainant.

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Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of March 26, 2003, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

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

DATED: May 10, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JAY ALEXANDER VARGAS,

Respondent.

Case No. H-29668-LA

OAH No. L2002090664

PROPOSED DECISION

Administrative Law Judge M. Amanda Behe, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on March 26, 2003.

Chris Leong, Counsel, represented the Department of Real Estate.

Respondent represented himself.

The matter was submitted on March 26, 2003.

FACTUAL FINDINGS

1. Maria Suarez is a Deputy Real Estate Commissioner of the State of California Department of Real Estate (hereinafter "the Department") and made and filed the Statement of Issues in her official capacity.

2. On February 14, 2002, Jay Alexander Vargas (hereinafter "respondent") applied to the Department for a real estate salesperson license pursuant to Business and Professions Code section 10153.3. Any license issued as a result of that application would be subject to the conditions of Section 10153.4 of the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

3. Business and Professions Code section 480 provides that:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) 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.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

“(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

“(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.”

4. Business and Professions Code section 10177 provides that:

“The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

“(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation, or deceit, or by

making any material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

“(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

“(c) ...”

5. On February 14, 2002, respondent filed a Salesperson License Application form on which he fully disclosed the details of his convictions set forth in the following Findings. As directed on the form respondent identified the court of conviction, arresting agency, date of conviction, whether felony or misdemeanor, code section violated, and disposition of each case.

6. On April 27, 1994, in the Municipal Court, Central Judicial District, County of Orange, Case No. 93CM13715, respondent was convicted of a misdemeanor violation of Penal Code section 12031(a) [CARRYING A LOADED FIREARM IN A PUBLIC PLACE], a crime involving moral turpitude. The crime of which respondent was convicted is substantially related to the qualifications, functions and duties of the licensed activity.

Respondent described that the circumstances of the crime were his use of drugs and selling drugs to support his habit. He collected guns and when stopped by the police was in possession of an unregistered, loaded and concealed handgun.

Respondent was sentenced to complete a period of county work program and placed on informal probation. He recalled that his work program activity was picking up trash around the airport.

7. On December 11, 1995, in the Superior Court, County of Orange, Case No. 95CF2619, respondent was convicted of violation of Penal Code sections 502.7(a)(1) [FRAUDULENT USE OF CELL PHONE], a felony, and 502.7(d) [SALE OF ILLEGAL TELECOMMUNICATIONS EQUIPMENT], a felony, and 12031(a) [CARRYING A LOADED FIREARM], a misdemeanor, and Vehicle Code section 14601.1(a) [DRIVING ON SUSPENDED/REVOKED LICENSE], a misdemeanor, and Health and Safety Code section 11364 [POSSESSION OF OPIUM PIPE], a misdemeanor. The listed crimes are offenses involving moral turpitude which are related to the qualifications, functions and duties of the licensed activity.

The circumstances of the crimes were that respondent was illegally cloning and selling cell phones to support his drug habit. When arrested he had a concealed handgun, and a pipe he used to smoke methamphetamine. His driver's license was revoked.

Respondent was sentenced to ninety days jail time and placed on three years formal probation. He testified that he did not complete probation, and was arrested and convicted as set forth in the following Finding.

8. On May 13, 1996, in the Superior Court, County of Orange, Case No. 96WF0583, respondent was convicted of violation of Penal Code section 12021(d) [CONVICTED PERSON IN POSSESSION OF FIREARM], a felony, and Health and Safety Code section 11378 [POSSESSION OF CONTROLLED SUBSTANCE FOR SALE], a felony. The listed crimes are offenses involving moral turpitude which are related to the qualifications, functions and duties of the licensed activity.

Respondent described that the circumstances of the crimes were his selling drugs out of his residence. The police searched his home and found drugs as well as a handgun.

Respondent was ordered to pay a \$200 restitution fine and sentenced to two years in state prison and three years parole. He paid the ordered fine, served his prison sentence, and successfully completed parole as more fully described hereinbelow.

9. While in prison respondent completed the General Educational Development (GED) course through Rancho Santiago Community College. On March 5, 1996, he received a Certificate of Completion reflecting that accomplishment. The State of California issued his "High School Equivalency Certificate" on April 16, 1996.

On March 6, 1996, respondent completed a course in "Positive Parenting" offered by Rancho Santiago Community College while he was in prison. He was issued a Certificate of Completion reflecting that accomplishment.

Respondent attended Narcotics Anonymous while in prison. His testimony reflected that he learned skills to avoid the use of drugs and his mature recognition of the years of professional progress that drug addiction has cost him.

10. Respondent was released from prison on April 19, 1997, to commence three years of parole. Department of Corrections Parole Agent L. Guzman supervised the last two years of that period. On November 19, 2002, Agent Guzman wrote that respondent completed his three years of parole without any law or parole violations. He also wrote:

"His performance on parole can be qualified as excellent. He took the initiative to attend Narcotics Anonymous meetings of his own accord. His reintegration and adjustment to community life was very positive. He currently appears to be very motivated to be a self-sufficient and productive member of the community."

Respondent met with his parole agent once per month during the three years of parole. He was tested for drugs on parole, and never had a positive drug test. Respondent continued to attend Narcotics Anonymous meetings while on parole. He testified that he realized it was time to grow up and get serious about life, and began to restructure his life.

11. Respondent worked at Accutron Golf in La Habra after his release from prison until the firm closed. Michael Smith, Senior Vice President, wrote that respondent had been an invaluable employee and would be an asset to any employer.

12. Respondent next worked at the Credit Law Center, Law Offices of Lisa Rosenthal, as sales manager. In recommending that the Department grant respondent a license Tanya Rivera, a supervisor at the Credit Law Center, wrote that he was always honest, professional, and hard-working even around difficult clients. Ms. Rivera noted that respondent is greatly missed at the law firm, and that he would be well qualified for a license.

13. While working at the Credit Law Center respondent occasionally sent clients to Barrington Capital Corporation, a mortgage banking firm. Over time his cousin, Anthony Bolanos, a Department licensee and loan officer with Barrington Capital, urged him to accept a job with the firm. Mr. Bolanos candidly described his avoidance of respondent in the years he used drugs. In the years since respondent's release from prison Mr. Bolanos had ample opportunity to observe respondent, including in clubs and other places where drugs could be found, and saw his continued sobriety. Mr. Bolanos was therefore confident that he could recommend respondent to his own firm.

For the year prior to the subject hearing respondent has been employed by Barrington Capital Corporation as assistant to Vice-President Rick Russell and Anthony Bueno. Mr. Bolanos has seen respondent's excellent job performance, and that he is trusted with clients' paperwork and confidential correspondence. Company officer Roger Larson trusts respondent with bank deposits, account information, etc. Mr. Bolanos persuasively testified that respondent has worked hard to change his life, and has succeeded.

14. Respondent's brother Maximillian Vargas, a salesperson licensed by the Department, is a loan officer at Barrington Capital. He described that the firm writes more than \$100 million per year. Mr. Vargas considers that respondent is diligent, trustworthy, and a good husband and father. He has observed the officers of Barrington Capital trust him with important documents and confidential information, and that respondent has honored the confidence they have placed in him.

15. Jim Wayne, President of Barrington Capital Corporation, has known respondent for a year. Mr. Wayne has closely monitored respondent's performance and work ethics during his year of employment as an assistant to one of the firm's licensed agents. He concluded that respondent "has shown an exemplary attitude and high moral standard in working with our clients."

Mr. Wayne noted his responsibility as the owner/broker of record, and that the Department's records will reflect no negative marks for his firm. Mr. Wayne persuasively commented that based on his personal experience and belief in respondent, his actions will continue that record. Mr. Wayne urged that the Department grant respondent a license.

16. Rick Russell, Vice-President of Barrington Capital Corporation, opined that respondent is a good family man and a very hard worker. Mr. Russell noted that without a license respondent is unable to originate loans with the firm. He considers that respondent would be an asset for any company, and that his firm is fortunate to have him as an employee.

17. Glen Hughes, Operations Manager of Barrington Capital Corporation, has known respondent for a year. Mr. Hughes opined that respondent is a "very dedicated worker" and a "great asset" to the firm.

18. Jaime Ruiz has worked with respondent at Barrington Capital Corporation on a daily basis for six months. Mr. Ruiz stated that respondent is "honest, diligent and forthright" and an asset to the mortgage industry.

19. Respondent is happily married and has a daughter who is almost ten years old. His family is very important to him. He attends functions at her school, and is the assistant coach for her soccer team.

Respondent enjoys a close relationship with the many members of his family. He talks weekly with his brother Allan Vargas who lives in Utah. Allan Vargas wrote that in the past five years respondent has become an outstanding individual to whom his family and religion are important. He takes his daughter to gymnastics practice during the week and soccer on weekends. Allan Vargas further commented that respondent has kept continuous employment, and learned valuable life lessons.

Respondent's sister-in-law, Karyn Vargas, wrote that he is a family man and an outstanding citizen. She is impressed by respondent's personal growth, trusts him completely, and is confident that he will excel in his career path.

20. Larry Barquist is a Senior Professional Golf Association member whom respondent considers a mentor. Mr. Barquist wrote that he has known respondent for over eight years as a golf student and friend, and considers him to be honest, dedicated and reliable. He highly recommended respondent, and noted his willingness to help others.

21. Respondent's friends Franklin Weil, M.D., and his wife Phyllis Weil, R.N., wrote in support of respondent's application for a license. They stated that in the past five years he has been diligent, honest and reliable. They urged that he be given a license, and described his industrious effort to gain knowledge and build career skills.

22. The Department's criteria for rehabilitation in Title 10 CCR section 2911 have been considered with regard to respondent's application. The criteria provide:

"The following criteria have been developed by the department pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.

(c) Expungement of criminal convictions resulting from immoral or antisocial acts.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.

(g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.

(h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.

(i) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

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

(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.

(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

23. Respondent established substantial rehabilitation pursuant to Title 10, California Code of Regulations, section 2911. Six and one-half years have elapsed since his most recent criminal conviction. Respondent acknowledges that he has a history of acts and conduct substantially related to the qualifications, functions or duties of a licensee. His crimes did not involve persons experiencing monetary losses through his acts or omissions. Respondent successfully completed parole, and his commendable effort was described in the letter of Parole Agent Guzman [Finding 10]. His convictions have not been expunged.

Respondent has successfully abstained from the use of controlled substances since he was in prison. He and his brother and cousin candidly described his drug addiction, and that he has remained clean and sober since his imprisonment. While in prison respondent completed the course for his GED and another class.

Respondent has a stable family life, and is dedicated to providing for his wife and daughter. Respondent testified that he wants a license from the Department for advancement in a good industry. He has been continuously employed during and after parole, and has excellent credit which he does not abuse. He has been involved in school programs and youth athletic programs which contribute to society and the particular interests of his daughter.

His testimony and that of his brother and cousin credibly described that respondent has new and different social and business relationships from those which existed at the time of his drug use and criminal conduct. His brother and cousin were candid in expressing that if respondent was still using drugs they would not associate with him, much less recommend him for employment. Respondent's mature attitude is demonstrated by his continued employment, the impressive letters of his colleagues at Barrington Capital, and the testimony and letters of his extended family. The letter of Agent Guzman described his social adjustments and other success on parole.

LEGAL CONCLUSIONS

Cause for denial of respondent's application for a real estate salesperson's license was established pursuant to Business and Professions Code sections 480 and 10177(b). Respondent was convicted of offenses involving moral turpitude which bear a substantial relationship to the qualifications, functions, or duties of a real estate licensee.

Respondent established that he is rehabilitated from his drug use and his history of convictions. The Department's interest in protection of the public is considered, and it found that the terms set forth in the Order will appropriately address such concerns.

ORDER

The application of Jay Alexander Vargas for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 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
- (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.

Dated: April 11, 2003



M. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

Sacto
Joe

FILED
JAN 16 2003
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Jana B. [Signature]

In the Matter of the Application of) Case No. H-29668 LA
)
JAY ALEXANDER VARGAS,) OAH No. L-2002090664
)
)
_____) Respondent(s)

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, MARCH 26, 2003, at the hour of 1:30 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: January 16, 2003

By [Signature]
CHRIS LEONG, Counsel

cc: Jay Alexander Vargas
Sacto.
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II

Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in her official capacity.

III

On or about April 27, 1994, in the Municipal Court, Central Judicial District, County of Orange, State of California, Case No. 93CM13715, Respondent, aka Jay Alex Vargas, was convicted of violating Section 12031(a) of the California Penal Code ("PC") (Carry loaded firearm; public place), a misdemeanor and a crime involving moral turpitude which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

On or about December 11, 1995, in the Superior Court of the State of California, County of Orange, Case No. 95CF2619, Respondent, aka Jay Alex Vargas, was convicted of violating Section 502.7(a)(1) PC (Fraudulent use of cell phone), a felony; Section 502.8(d) (Sell illegal telecom equipment), a felony; Section 12025(a) PC (Carry concealed weapon), a misdemeanor; Section 12031(a) PC (Carry loaded firearm), a misdemeanor; Section 14601.1(a) of the California Vehicle Code (Driving on suspended or revoked license), a misdemeanor; and Section 11364 of the California Health & Safety Code (Possession of opium pipe), a misdemeanor, crimes involving moral turpitude which are substantially

1 related to the qualifications, functions and duties of a real
2 estate licensee.

3 V

4 On or about May 13, 1996, in the Superior Court of
5 the State of California, County of Orange, Case No. 96WF0583,
6 Respondent, aka Jay Alex Vargas and aka Alex Jay Vargas, was
7 convicted of violating Section 11378 HS (Possession of
8 controlled substance for sale), a felony and
9 Section 12021(d) PC (convicted person in possession of
10 firearm), a felony and crimes involving moral turpitude which
11 are substantially related to the qualifications, functions and
12 duties of a real estate licensee.

13 Respondent's convictions, as set forth in Paragraph
14 III through VI, are cause to deny Respondent's real estate
15 license application pursuant to Code Sections 480(a)(1) and
16 10177(b).

17 These proceedings are brought under the provisions of
18 Section 10100, Division 4 of the Business and Professions Code
19 of the State of California and Sections 11500 through 11528 of
20 the Government 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, JAY ALEXANDER VARGAS, and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California
this 4th day of September, 2002.



Deputy Real Estate Commissioner

cc: Jay Alexander Vargas
Maria Suarez
Sacto.
RLJ