

On May 5, 2003, a Decision was rendered herein, denying Respondent's application for a real estate 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 June 3, 2003, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

1 On or about June 8, 2005, Respondent petitioned for
2 the removal of restrictions attaching to Respondent's real
3 estate salesperson license.

4 I have considered the petition of Respondent and the
5 evidence submitted in support thereof. Respondent has
6 demonstrated to my satisfaction that Respondent meets the
7 requirements of law for the issuance to Respondent of an
8 unrestricted real estate salesperson license and that it would
9 not be against the public interest to issue said license to
10 Respondent.
11

12 NOW, THEREFORE, IT IS ORDERED that Respondent's
13 petition for removal of restrictions is granted and that a
14 real estate salesperson license be issued to him subject to
15 the following understanding and conditions:

16 1. The license issued pursuant to this order shall
17 be deemed to be the first renewal of Respondent's real estate
18 salesperson license for the purpose of applying the provisions
19 of Section 10153.4.

20 2. Within nine (9) months from the date of this
21 order Respondent shall:

22 (a) Submit a completed application and pay the
23 appropriate fee for a real estate salesperson license, and

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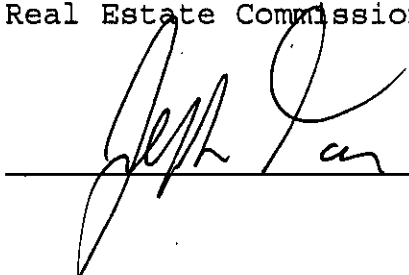
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1 (b) Submit evidence of having taken and successfully
2 completed the courses specified in subdivisions (a) (1),
3 (2), (3) and (4) of Section 10170.5 of the Real Estate
4 Law for renewal of a real estate license.
5

6 3. Upon renewal of the license issued pursuant to
7 this Order, Respondent shall submit evidence of having taken
8 and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
10 for renewal of a real estate license.
11

12 This Order shall be effective immediately.

13 Dated: 4-3-07

14 JEFF DAVI
15 Real Estate Commissioner
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26 cc: Nizar M. Kailani
27 1135 La Rosa Road
Arcadia, CA 91007-6145

FILED
MAY 14 2003

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

By 

In the Matter of the Application of) No. H-29756 LA
NIZAR M. KAILANI,) L-2002120199
Respondent.)

DECISION

The Proposed Decision dated March 13, 2003, 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.

Pursuant to Section 11517(b)(3) of the Government Code, the Proposed Decision, page 1, paragraph 3, "Kalian" is amended to read "Kailani".

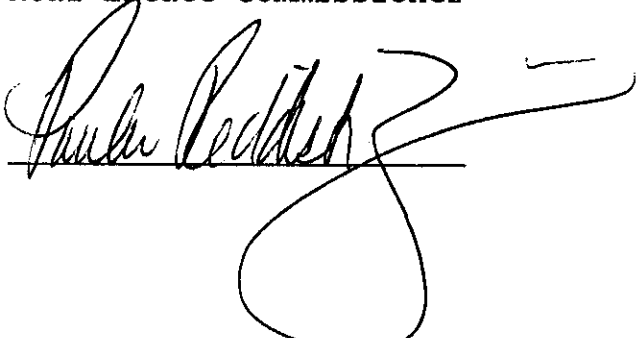
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on June 3, 2003.

IT IS SO ORDERED

May 5, 2003
PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

NIZAR M. KAILANI,

Respondent.

Case No. H – 29756 LA

OAH No. L 2002120199

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, State of California, Office of Administrative Hearing, heard this matter in Los Angeles, California on February 11th, 2003.

James Peel, Real Estate counsel, represented Complainant Maria Suarez, a Deputy Real Estate Commissioner of the Department of Real Estate of the State of California ("Department").

Respondent Nizar M. Kailani was present throughout the hearing and represented himself.

The matter was submitted on February 11th, 2003.

FACTUAL FINDINGS

1. Complainant Maria Suarez, a Deputy Real Estate Commissioner of the Department, filed the Statement of Issues in this proceeding in her official capacity.
2. On or about April 19th, 2001, Respondent Nizar M. Kailani applied to the Department for a Real Estate Salesperson License.
3. On or about August 10th, 1999, in the Municipal Court of the Citrus Judicial District, Los Angeles County, California, Respondent entered pleas of nolo contendere to having violated Penal Code Section 470 – forgery – a misdemeanor and Penal Code Section 487 (A) – grand theft – a misdemeanor. The court placed Respondent on summary probation for a period of three years upon certain terms and conditions including making restitution and performing 45 days of community labor. Respondent made the restitution and completed the

community labor. He also completed the probationary period. On or about January 15th, 2003, Respondent's motion to expunge the conviction was granted by the Court, pursuant to Penal Code Section 1203.4.

4. On or about January 14th, 2000, in the Municipal Court of the Citrus Judicial District, Los Angeles County, California, Respondent entered a plea of nolo contendere to a violation of Penal Code Section 243(E)(1) – spousal abuse - a misdemeanor. The court placed Respondent on summary probation for a period of three years upon certain terms and conditions, including, 90 days in the county jail, enrollment and completion of a 52 week domestic violence counseling program; compliance with a protective order, and the payment of \$200 to the domestic violence fund and other fees. Respondent has paid all monetary assessments; and completed the jail time, domestic violence program and probationary period. On or about January 15th, 2003, Respondent's motion to expunge the conviction was granted by the Court, pursuant to Penal Code Section 1203.4.

5. The crimes committed by Respondent, set forth above, involved moral turpitude and are substantially related to the qualifications, functions or duties of a real estate licensee.

6. With regard to his 1999 convictions, Respondent stated that they concerned a dispute with his brother. The brother had a business fixing up and selling houses. Respondent did the bookkeeping for his brother. He and the brother had a disagreement. They went their separate ways. Respondent felt that he was owed \$7,585 by his brother so he wrote himself a check on the brother's account for \$7,000. His brother asserted that this was not authorized and had Respondent prosecuted. Respondent said he pled nolo to the charge to get rid of it. Restitution of the amount was made.

7. With regard to his 2000 conviction for spousal abuse, Respondent said he had no recollection of hitting his wife. No further details of the occurrence were provided by him. Respondent stated that he is no longer married to the victim.

8. On November 4th, 2000, Respondent married his present spouse. She has two children ages 11 and 9. His present wife testified that since their marriage, Respondent has changed all of his friends. She said this was a very positive development. His attitude has changed. He no longer drinks. They have a stable life. She is confident that she can depend on him.

9. It has been just over three years since Respondent's last criminal conviction. He has no other convictions than those described above.

10. Respondent produced four character witnesses at the hearing, two of whom testified positively about his work ethic, friendships and ability to get along with other people. Respondent also supplied a number of letters in from persons at the church he attends and elsewhere in the community attesting to his good character. Finally, he produced evidence of having completed educational courses.

11. Respondent meets the Department's criteria to establish rehabilitation following a conviction.

LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for a Real Estate Salesperson's License, pursuant to Business and Professions Code Sections 480 (a) and 10177 (b), in that he has been convicted of the crimes set forth in Paragraphs 3 through 7 of the Factual Findings which are substantially related to the qualifications, functions or duties of a licensee of the Department as described in Section 2910 of Title 10 of the California Code of Regulations.

2. Respondent meets the criteria for rehabilitation set forth in Section 2911 of Title 10 of the California Code of Regulations as is more fully set forth in Paragraphs 3 through 11 of the Factual Findings.

3. Respondent has been convicted of three very serious crimes. Notwithstanding that, he has met the Department requirements for showing rehabilitation. For example, all requirements of the sentencing courts have been met, restitution has been made, the convictions have been expunged, and he has changed his ways and has a stable family life. This has been accomplished in fairly recent times, however. Given the totality of the situation, it would appear appropriate to grant Respondent a restricted license to insure that he has overcome his prior problems. Issuance of a restricted license under these circumstances is supported by the fact that having met the rehabilitation requirements his request to the Department is strengthened. See: Business and Professions Code Section 480 (b).

ORDER

Respondent's application 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 two years have 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 RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

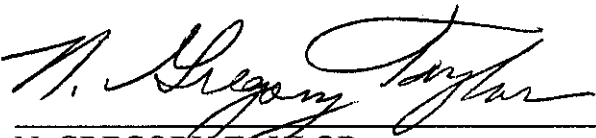
(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(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.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real 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 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: March 13th, 2003.



N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

5/10/03
Klay

FILED
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

In the Matter of the Application of

NIZAR M. KAILANI

Respondent

} Case No. H-29756 LA

} OAH No. L-2002120199

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California**, on **Tuesday, February 11, 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.

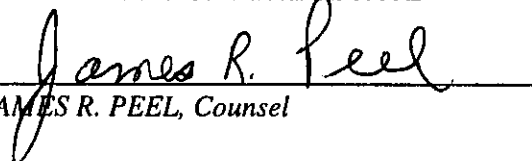
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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

By

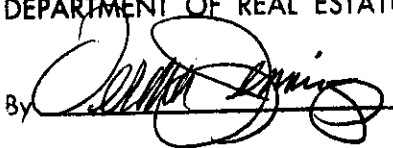

JAMES R. PEEL, Counsel

Dated: December 27, 2002.

Nizar M. Kailani
Sacto./OAH

3-10-01
Flag

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6 Telephone: (213) 576-6982
7 -or- (213) 576-6913 (Direct)

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OCT 31 2001
DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)	No. H-29756 LA
12 NIZAR M. KAILANI,)	
13 Respondent.)	<u>STATEMENT OF ISSUES</u>
14	

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against NIZAR M. KAILANI (Respondent) is informed and alleges in
18 her official capacity as follows:

19 I

20 On or about April 19, 2001, Respondent applied to the
21 Department of Real Estate of the State of California for a real
22 estate salesperson license with the knowledge and understanding
23 that any license issued as a result of that application would be
24 subject to the conditions of Section 10153.4 of the Business and
25 Professions Code.

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II

On or about August 10, 1999, in the Municipal Court of Citrus Judicial District, County of Los Angeles, State of California, Respondent was convicted of violating Section 470 of the Penal Code (Forgery) and 487(a) (Theft), crimes involving moral turpitude, and substantially related to the qualifications, functions or duties of a real estate licensee.

III

On or about January 14, 2000, in the Municipal Court of Citrus Judicial District, County of Los Angeles, State of California, Respondent was convicted of violating Section 243(e) (1) of the Penal Code (Battery), a crime involving moral turpitude, and substantially related to the qualifications, functions or duties of a real estate licensee.

IV

The matters described in Paragraphs II and III constitute cause for denial of Respondent's application for a real estate salesperson license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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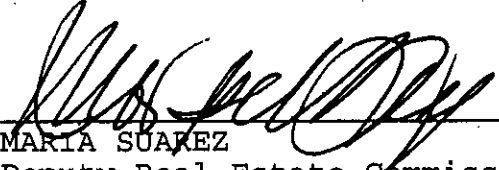
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1 The Statement of Issues is brought under the provisions
2 of Section 10100, Division 4 of the Business and Professions Code
3 of the State of California and Sections 11500 through 11528 of
4 the Government Code.

5 WHEREFORE, the Complainant prays that the above-
6 entitled matter be set for hearing and, upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of, a real estate salesperson
9 license to Respondent NIZAR M. KAILANI and for such other and
10 further relief as may be proper in the premises.

11 Dated at Los Angeles, California,
12 this 30th day of October, 2002.

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15 
16 MARIA SUAREZ
17 Deputy Real Estate Commissioner
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23

24 cc: Nizar M. Kailani
25 Maria Suarez
26 Sacto.
27 LF