

**FILED**  
SEP - 4 2003  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Application of )	No. H-29969 LA
JUAN CARLOS MADIEDO, )	L-2003030590
Respondent. )	

DECISION

The Proposed Decision dated July 24, 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.

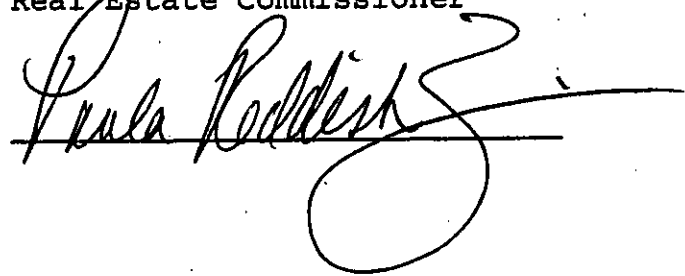
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 September 24, 2003

IT IS SO ORDERED August 28, 2003

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
AUG 29 2003  
DEPARTMENT OF REAL ESTATE

In the Matter of the Statement of Issues  
Against:

Juan Carlos Madiedo,

Respondent.

Case No. H-29969 LA

OAH No. L2003030590

**PROPOSED DECISION**

On June 24, 2003, in Los Angeles, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Martha J. Rosett, Counsel, Department of Real Estate.

Respondent represented himself.

Evidence was received, the record was closed and the matter was submitted.

**FACTUAL FINDINGS**

1. Complainant Maria Suarez made the allegations in the Statement of Issues in this matter in her official capacity as a Deputy Real Estate Commissioner of the State of California.
2. On August 5, 2002, respondent made application to the Department for a real estate salesperson license.
3. On April 9, 1991, in the United States District Court, Central District of California, respondent was convicted on his plea of guilty of violating section 841 (a) (1) (Possession with intent to distribute approximately 299 kilograms of cocaine), Title 21, of the United States Code. This crime was a felony involving moral turpitude. It is substantially related to the qualifications, functions and duties of a real estate licensee. As a result of this conviction, respondent was sentenced to serve 151 months in prison, followed by five years of supervised release. Respondent actually served 114 months and received an early release from prison in January 2000. Respondent remains on supervised release until July 2005.

The facts and circumstances surrounding this conviction are that respondent was a driver ("Mule") for a Columbian Drug Ring.

4. Respondent will be on supervised release for another one and one half years. He is not yet fully rehabilitated. However, beginning with his imprisonment respondent has made remarkable progress toward rehabilitation. Respondent was imprisoned for nine and one half years between 1990 and 2000. On March 31, 1995, he completed a nine month Residential Drug Abuse Program (Alcohol) and hasn't had a drink for 13 years.

Beginning in 1991 respondent began an impressive effort to improve his education. From 1991 through 1994 he earned 79 credit hours at Chapman University with a 3.898 GPA. In addition to a few remedial courses, his studies included subjects such as Principles of Biology, Intermediate Algebra, Pre-Calculus, Mathematics I, Introduction to Psychology, Global Issues, Oral Communication, Freshman Rhetoric, History of the United States, Writing About Literature, Introduction to Fiction, US History Survey II, Introduction to Ethics, Principles of Accounting I, World Literature III: 1660 to Modern, and Living Religions of the World. In January 1996, respondent had completed the first four of six courses leading to a certificate in Business Management at Cerritos College, Norwalk, California. In April 1996 he completed a course in Mathematics for Machine Tool Technology at El Camino College. In the spring of 1996 he also earned nine credits in Marketing, Business Management and Machine Shop Calculations, at El Camino College with a GPA of 4.00. In the fall of 1999 respondent received a grade of "A" in Physical Geology at Los Angeles City College. In 1996, respondent took five courses from Eastern Arizona College and received all A's. Four of these courses involved carpentry and blue print reading. The fifth was principles of Macroeconomics. Respondent received a Certificate of Proficiency in Pre-Apprenticeship Carpentry, from Eastern Arizona College. By September 30, 1993, respondent successfully completed 240 hours of Building Maintenance and Construction Training as a Top Honor Student. He took additional courses on the Uniform Building Code and was certified as a Building Inspector in August 1995. In total, respondent has approximately 221 college credits. He does not have a degree. Since leaving prison, respondent has completed eight real estate courses.

Respondent is now 39 years old, still married, and has three teenage children. He and his wife own their home and car. His wife is employed. Respondent's family is involved in real estate and he works as a transaction coordinator for Star Funding Company owned by his stepmother. He has been employed in this position since his release from prison.

Respondent is ashamed of his past drug activity, remorseful, and is committed to never doing anything that will jeopardize the wellbeing of his family. Because respondent is still on supervised release, it cannot be found that he is rehabilitated. However, in view of the fact that the crime leading to his conviction occurred 12 ½ years ago and respondent began his rehabilitation at the beginning of his incarceration, as well as the fact that he has continued his rehabilitation for the last three and a half years since his release from imprisonment, respondent should receive a restricted real estate salesperson license. He is committed to full rehabilitation.

## LEGAL CONCLUSIONS

1. Grounds for denial of respondent's application for a real estate salesperson license was established pursuant to sections 480 (a) and 10177 (b) (Substantially related conviction involving moral turpitude) of the Business and Professions Code, by reason of finding 3.

2. In view of respondent's remarkable progress toward rehabilitation, as set forth in finding 4, he should be issued a restricted license.

### ORDER

Wherefore, the following order is hereby made:

The application of Juan Carlos Madiedo for a real estate salesperson is denied; provided, however, a restricted salesperson license shall be issued 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.

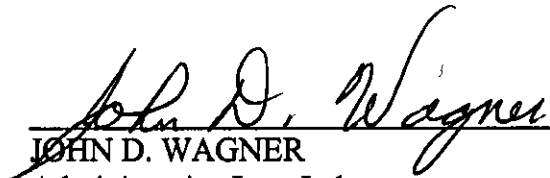
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to Respondent.

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.

Dated: July 24, 2003

  
\_\_\_\_\_  
JOHN D. WAGNER  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of ) Case No. H-29969 LA  
)  
JUAN CARLOS MADIEDO, ) OAH No. L-2003030590  
)  
\_\_\_\_\_)  
Respondent(s)

**FILED**  
APR - 9 2003  
DEPARTMENT OF REAL ESTATE

**NOTICE OF HEARING ON APPLICATION**

To the above-named Respondent(s):

*W. C. [Signature]*

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 TUESDAY, JUNE 24, 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: April 9, 2003

By *Martha J. Rosett*  
MARTHA J. ROSETT, Counsel

cc: Juan Carlos Madiedo  
Eduvigis Madiedo  
✓ Sacto.  
OAH

1 MARTHA J. ROSETT, Counsel (SBN 142072)  
2 Department of Real Estate  
3 320 West Fourth St. #350  
4 Los Angeles, CA 90013

4 (213) 576-6982  
5 (213) 576-6914

**FILED**  
FEB 21 2003  
DEPARTMENT OF REAL ESTATE

*CB*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \*

11 In the Matter of the Application of) No. H-29969 LA  
12 JUAN CARLOS MADIEDO, ) STATEMENT OF ISSUES  
13 Respondent. )  
14 \_\_\_\_\_ )

15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against JUAN CARLOS MADIEDO (hereinafter "Respondent"), alleges  
18 in her official capacity as follows:

19 1.

20 On or about August 5, 2002, Respondent made application  
21 to the Department of Real Estate of the State of California  
22 (hereinafter "Department") for a real estate salesperson license.

23 2.

24 On or about April 9, 1991, in the United States  
25 District Court, Central District of California, in Case  
26 No. 90-626-LEW, Respondent was convicted of violating  
27

1 21 USC 841(a)(1) (possession with intent to distribute  
2 approximately 299 kilograms of cocaine), a felony and crime of  
3 moral turpitude which is substantially related to the  
4 qualifications, functions and duties of a real estate licensee.  
5 Respondent was sentenced to serve one-hundred and fifty-one (151)  
6 months in prison, followed by five years of supervised release.  
7 Respondent received an early release from prison in January 2000.  
8 Respondent remains on probation until January of 2005.

9 3.

10 Respondent's conviction, as set forth in Paragraph 2,  
11 constitutes grounds for denial of Respondent's application for a  
12 real estate license pursuant to Business and Professions Code  
13 Sections 480(a) and 10177(b).


14 These proceedings are brought under the provisions of  
15 Section 10100, Division 4 of the Business and Professions Code of  
16 the State of California and Sections 11500 through 11528 of the  
17 Government Code.

18 //  
19 //  
20 //  
21 //  
22 //  
23 //  
24 //  
25 //  
26 //  
27 //



1           WHEREFORE, the Complainant prays that the above-  
2 entitled matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent JUAN CARLOS MADIEDO and for such other and  
6 further relief as may be proper under the law.

7 Dated at Los Angeles, California  
8 this 20<sup>th</sup> day of February, 2003.

9  
10  
11   
12 Deputy Real Estate Commissioner

13  
14  
15  
16  
17  
18  
19  
20  
21 cc: Juan Carlos Madiedo  
22 Eduvigis Madiedo  
23 Sacto.  
24 Maria Suarez  
25 OA  
26  
27