

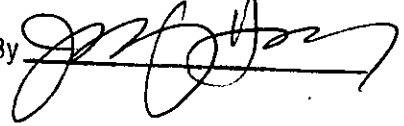
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FILED  
SEP 30 2003

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

\* \* \* \* \*

In the Matter of the Application of)  
CESAR RAMIREZ,  
Respondent.

No. H-30069 LA  
L-2003050613

DECISION

The Proposed Decision dated August 27, 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.

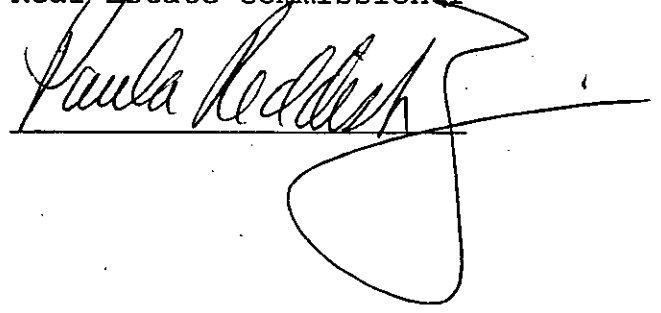
The application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on October 20, 2003.

IT IS SO ORDERED

September 24, 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:

CESAR RAMIREZ,

Respondent.

Case No. H-30069 LA

OAH No. L2003050613

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, in Los Angeles, California, on July 29, 2003.

Mary E. Work, Real Estate Counsel, represented Complainant. Respondent appeared and represented himself.

Oral and documentary evidence was received and argument made. The record was closed and the matter submitted on July 29, 2003. The below order DENYING Respondent's application for a real estate salesperson license is based on the following:

**FACTUAL FINDINGS**

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

2. Respondent submitted an application to the California Department of Real Estate ("DRE") for a real estate salesperson license on May 10, 2001. The DRE denied the application by virtue of the two below-described convictions and allegations that Respondent failed to disclose material information, to wit use of another name. Respondent appealed the denial by filing a Notice of Defense requesting the instant hearing.

3. On June 28, 2000, in the Municipal Court for the County of Los Angeles (Downey Judicial District), State of California, in Case No. 0DW00735, Respondent was convicted upon his plea of nolo contendere to violating Penal Code section 242 (Battery), a misdemeanor, involving moral turpitude, and substantially related to the qualifications, functions or duties of a real estate licensee.

4. Imposition of sentence was suspended, and Respondent was placed on informal probation for three (3) years under terms including he not use force on any person and he obey all laws and further court orders.

5. The facts and circumstances underlying the conviction were that on January 13, 2000, Respondent did unlawfully and willfully use force and violence against his wife.

6. On April 4, 2001, in the Superior Court for the County of San Diego (South County Division), State of California, in Case No. S157656, Respondent was convicted upon his plea of guilty to violating Vehicle Code section 31 (False Information to a Police Officer), a misdemeanor, involving moral turpitude, and substantially related to the qualifications, functions or duties of a real estate licensee.

7. Imposition of sentence was suspended, and Respondent was placed on informal probation for one (1) year, upon terms including he pay a \$ 100 fine. The court also ordered that "upon successful completion of probation, [the] case will be dismissed", but no evidence established the court subsequently did so.

8. The facts and circumstances underlying the conviction were that on February 24, 2001, Respondent intentionally gave false information about an automobile accident to an investigating police officer. In particular, Respondent told the officer an unidentified car caused another car driven by an acquaintance to crash, when in fact he knew no such vehicle was involved and his acquaintance had simply fallen asleep and lost control of his vehicle.

9. By knowingly giving false information to a police officer in the course of his duties, Respondent also violated the term of his probation from the June 2000 conviction requiring he obey all laws. However, no court action was taken in the other case as a result.

10. Respondent did not establish his full rehabilitation from both convictions, though he has made progress. For example, he remains married to his wife and they have three small children together. Their relationship is much better and no more violence has occurred. He has remained gainfully employed for many years as a carpenter. He apparently successfully completed his last probation, and his first probation has also terminated. No evidence indicated any further contacts with law enforcement after his last arrest.

However, the balance of evidence negates a finding of rehabilitation. Both convictions were fairly recent. His second probation terminated not long ago. He violated his first probation by subsequently giving false information to a police officer and thus failing to obey all laws. Respondent was not totally candid about the circumstances of his second conviction and did not otherwise demonstrate sincere remorse regarding either conviction. Many other typical hallmarks of rehabilitation were not established.

11. In response to Question 18 of his application for a salesperson license, to wit "HAVE YOU EVER USED ANY OTHER NAMES (i.e. Maiden names, aka's, etc.)?" Respondent answered "No." Respondent failed to provide the name "Cesar Valentine Ramirez Campos," which name appears on his California Department of Motor Vehicles ("DMV") Driver Record Information, has been on a prior DMV Identification Card, and is on his Certificate of Naturalization issued by the federal government in 1996.

12. Respondent failed to disclose use of the name "Campos" because he did not understand it was an "aka" and therefore did not think he needed to disclose it. He sometimes used the name "Campos," which is his mother's maiden name, or "Ramirez-Campos," when he first immigrated to this country from Mexico, which is a custom in Mexico. Before submitting his application to the DRE, he began only using the last name "Ramirez," which is his father's surname, to track the culture in America. He simply did not understand these names are different due to these cultural differences. He did not knowingly omit this information to procure a real estate license. The evidence did not otherwise establish a motive for him to have done so. For example, both convictions were in the name of "Ramirez" (which he disclosed) and not "Campos" (which he did not).

### LEGAL CONCLUSIONS

1. Respondent's failure to disclose in his application the use of another name did not constitute an attempt to procure a real estate license by misrepresentation or by making a material misstatement of fact, and therefore is not cause for denial of issuance of a license to an applicant under sections 475(a)(1), 480(c) and 10177(a) of the California Business and Professions ("B&P") Code. Factual Findings 11-12.

2. Respondent's two convictions involve moral turpitude and are substantially related to the qualifications, functions and duties of a real estate salesperson under California Code of Regulations, title 10 ("10 CCR"), § 2911, and therefore constitute cause for denial of his application for a real estate license under sections 475(a)(2), 480(a)(1), and 10177(b) of the B&P Code. Factual Findings 1-9.

3. Respondent did not demonstrate sufficient rehabilitation from his two convictions to justify issuance of a restricted license. The DRE established criteria for an applicant's rehabilitation from a conviction, found at 10 CCR § 2911, subdivisions (a)-(n). Respondent does not meet a majority of them, though he is making encouraging progress. He had the burden, however, to establish his rehabilitation. While more time may allow him to later demonstrate such, he currently failed to meet his burden. Factual Findings 1-10.

### ORDER

The application of Respondent CESAR RAMIREZ for a real estate salesperson license is DENIED.

DATED: August 27, 2003



ERIC SAWYER,  
Administrative Law Judge  
Office of Administrative Hearings

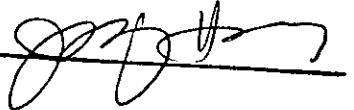
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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of ) Case No. H-30069 LA  
)  
CESAR RAMIREZ, ) OAH No. L-2003050613  
)  
\_\_\_\_\_) Respondent

FILED  
JUN 6 2003  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By 

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 TUESDAY, JULY 29, 2003, at the hour of 9:00 A.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.

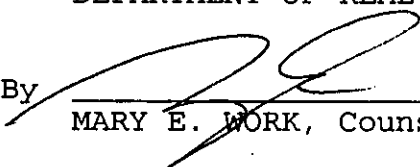
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: June 6, 2003

By   
MARY E. WORK, Counsel

cc: Cesar Ramirez  
Chavez Corporation  
Sacto.  
OAH

59010

MARY E. WORK, Counsel  
SBN 175887  
Department of Real Estate  
320 West 4<sup>th</sup> Street, Suite 350  
Los Angeles, CA 90013-1105  
Telephone (213) 576-6982  
-Direct- (213) 576-6916

**FILED**  
APR 16 2003

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of

No. H-30069 LA

CESAR RAMIREZ,

Respondent.

STATEMENT OF ISSUES

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against CESAR RAMIREZ (hereinafter "Respondent"), is informed and alleges as follows:

I

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

II

Respondent made application to the Department of Real Estate of the State of California (hereinafter "Department") for a real estate salesperson license on or about May 10, 2001, with the knowledge and understanding that any license issued would be

1 subject to the conditions of Section 10153.4 of the Business and  
2 Professions Code (hereinafter "Code").

3 FIRST CAUSE OF ACTION  
4 (CRIMINAL CONVICTIONS)

5 III

6 On or about April 4, 2001, in the Superior Court of the  
7 State of California, County of San Diego, South County Division,  
8 in Case No. S157656, Respondent was convicted upon his plea of  
9 guilty of violating Vehicle Code Section 31 (False Information to  
10 a Police Officer), a misdemeanor crime the facts and  
11 circumstances of which involved moral turpitude and are  
12 substantially related under Section 2910, Title 10, Chapter 6,  
13 California Code of Regulations to the qualifications, functions  
14 or duties of a real estate licensee.

15 IV

16 On or about June 28, 2000, in the Municipal Court of  
17 Downey Judicial District, County of Los Angeles, State of  
18 California, in Case No. ODW00735, Respondent was convicted upon  
19 his plea of guilty of violating Penal Code Section 242 (Battery),  
20 a misdemeanor crime, the facts and circumstances of which  
21 involved moral turpitude and are substantially related under  
22 Section 2910, Title 10, Chapter 6, California Code of Regulations  
23 to the qualifications, functions or duties of a real estate  
24 licensee.

25 ////

26 ////

V

The crimes for which Respondent was convicted as described above constitute grounds for denial of Respondent's application for a real estate license under Section 475(a)(2), 480(a)(1) and 10177(b) of the Code.

SECOND CAUSE OF ACTION  
(FAILURE TO REVEAL USE OF OTHER NAMES)

VI

In response to Question 18 of said application for a salesperson license, to wit "HAVE YOU EVER USED ANY OTHER NAMES (i.e. Maiden names, aka's, etc.)?" Respondent answered "No." Respondent failed to provide the name Cesar Valentine Ramirez Campos. Said information appears on Respondent's State of California Department of Motor Vehicles Driver Record Information.

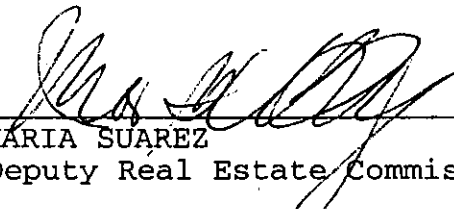
VII

Respondent's failure to disclose the use of another name as described above in Paragraph VI, in said application, constitutes the attempted procurement of a real estate license by misrepresentation, fraud or deceit or by making a material misstatement of fact and is cause for denial of issuance of a license to an applicant under Sections 475(a)(1), 480(c) and 10177(a) of the Code.

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Section 11500 through 11529 of the Government Code.



1 WHEREFORE, Complainant prays that the above entitled  
2 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, CESAR RAMIREZ and for such other and  
6 further relief as may be proper under other provisions of law.

7  
8   
9 MARIA SUAREZ  
Deputy Real Estate Commissioner

10 Dated at Los Angeles, California,  
11 this 15<sup>th</sup> day of April, 2003.

12  
13  
14  
15 cc: Cesar Ramirez  
16 Xavier Chavez  
17 Maria Suarez  
18 SACTO  
19 LF  
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