

**FILED**

JUL 28 2009

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of  
DARRYL RICHARD WEST,  
Respondent.

No. H-31103 LA

ORDER GRANTING UNRESTRICTED LICENSE

On January 19, 2005, a Decision was rendered herein denying the 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 March 7, 2005, and Respondent has operated as a restricted licensee since that time.

On January 21, 2009, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's Petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

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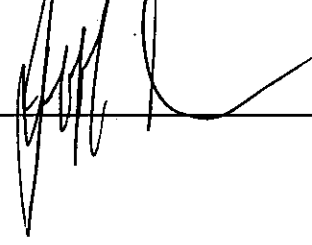
NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of restrictions is granted and that a real estate salesperson license be issued to Respondent if, within twelve (12) months from the date of this order, Respondent shall:

- (a) Submit a completed application and pay the appropriate fee for a real estate salesperson license, and
- (b) Submit evidence of having taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.

This Order shall become effective immediately.

IT IS SO ORDERED \_\_\_\_\_ 7/28/09

JEFF DAVI  
Real Estate Commissioner

\_\_\_\_\_  




BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
JAN 19 2005  
DEPARTMENT OF REAL ESTATE

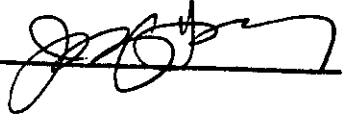
In the Matter of the Application of:

DARRYL RICHARD WEST,

**Respondent.**

File No. H-31103 LA

OAH No. L2004080409

By 

**PROPOSED DECISION**

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on November 4, 2004, in Los Angeles, California. Complainant was represented by Kelvin K. Lee, Staff Counsel for the Department of Real Estate. Respondent Darryl Richard West (Respondent) appeared and was represented by Stanley Z. White, attorney at law.

Oral and documentary evidence was received and argument was heard. The record was left open until November 30, 2004, to allow Respondent to submit additional evidence and to allow Complainant to respond. Respondent's additional evidence was timely submitted and marked as follows: A Los Angeles Superior Court payment record, along with Respondent's pleading cover page and proof of service, were marked collectively for identification as Respondent's Exhibit C. Complainant having filed no response, Respondent's Exhibit C was admitted.

The record was closed and the matter was submitted for decision on November 30, 2004. The Administrative Law Judge hereby makes her findings of fact, conclusions of law, and orders, as follows:

**FACTUAL FINDINGS**

1. On July 22, 2004, Complainant Maria Suarez filed the Statement of Issues in the above-captioned proceeding while acting in her official capacity as Deputy Real Estate Commissioner of the Department of Real Estate (Department), State of California.

2. On January 12, 2004, Respondent submitted to the Department an application for a real estate salesperson license, with the knowledge and understanding that any license issued as a result of that application would be subject to the conditions of Business and Professions Code section 10153.4. The Department denied the application, and Respondent requested a hearing.

3a. On September 17, 1999, in the Municipal Court for the County of Los Angeles, Santa Anita Judicial District, Case Number 9WL02976, entitled *The People of the State of California v. Darryl Richard West*, Respondent was convicted, on his plea of nolo contendere, of one count of violating Penal Code section 470 (forgery), a misdemeanor involving moral turpitude and a crime which is substantially related to the qualifications, functions and duties of a real estate licensee.

3b. Respondent was placed on summary probation for 36 months and ordered to serve five days in county jail or to perform five days of Cal Trans work in lieu of jail time. Respondent was also ordered to pay fines and fees totaling \$162.00 and to pay restitution to the victim. Respondent completed the Cal Trans work and paid all fines and restitution. On October 19, 2004, the Court dismissed the case pursuant to Penal Code section 1203.4.

3c. The facts and circumstances surrounding the September 17, 1999 conviction were as follows: On May 19, 1999, two young men, whom Respondent had briefly met before, approached him and asked if he "wanted to make some money." Telling him that their scheme was "legal and no way could [he] get in trouble," the men gave Respondent a check to cash. Respondent noticed that a woman's name was on the check, which made him feel uncomfortable. Nevertheless, he intentionally and fraudulently submitted the check to Wells Fargo Bank for payment of money in the sum of \$450.00.

4a. As a factor in aggravation, Complainant offered evidence that, on April 17, 2003, in the Superior Court for the County of Los Angeles, Case Number 3LL02590, entitled *The People of the State of California v. Darryl Richard West, Jr.*, Respondent was convicted of one count of violating Vehicle Code section 22350 (driving at an unsafe speed), an infraction.

4b. As a result of his speeding infraction, Respondent was ordered to pay a \$168 fine or to attend traffic school and pay a \$162 traffic school fee, submitted with a certificate of traffic school completion. The fine or fee was due by August 14, 2003. Respondent completed traffic school. On August 20, 2003, a bench warrant was issued after Respondent failed to timely pay the Court-ordered fee. Respondent was unaware of the bench warrant until August of 2004, when he requested an extension of time to pay his fee. On November 17, 2004, Respondent paid \$162 to the Court. The bench warrant was recalled.

4c. The facts set forth in Factual Findings 4a and 4b do not constitute factors in aggravation.

5. Respondent took responsibility for his crime, which he characterized as an act of gross immaturity. Respondent stated that he did not know his two accomplices well prior to his crime and did not want to see them again. He has not had any contact with the two men since his conviction. His "life [has] changed dramatically since the incident" and through his troubles he has learned a "valuable lesson."

6. Since his conviction, Respondent has worked at various jobs, including 2 ½ years at the Los Angeles Times, where he took customers' credit card information for subscriptions. He has an outstanding job offer from Mulhearn Realtors, his sponsoring broker. Mulhearn knows about the Statement of Issues and is willing to supervise Respondent if he is awarded a restricted or conditional license.

7. Respondent provides financial support for his one-year-old son and his 23-year-old girlfriend.

### LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for a real estate salesperson license, pursuant to Business and Professions Code sections 480, subdivision (a)(1) and 10177, subdivision (b), and California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(2), (a)(4) and (a)(8), for his criminal conviction which is substantially related to the duties, qualifications, and functions of a real estate licensee, as set forth in Factual Finding 3a.

2. Respondent has substantially complied with many of the Department's rehabilitation criteria set forth in California Code of Regulations, title 10, section 2911, as follows:

- (1) Five years have lapsed since his conviction.  
[Subsection (a)];
- (2) Respondent has paid restitution to the victim.  
[Subsection (b)];
- (3) Respondent has obtained an expungement of his conviction, pursuant to Penal Code section 1204.3.  
[Subdivision (c)];
- (4) Respondent has paid all fines and monetary penalties imposed in connection with his criminal convictions.  
[Subsection (g)];
- (5) Respondent is attempting to fulfill his parental responsibilities.  
[Subsection (h)];
- (6) Respondent has new and different social and business relationships from those that existed at the time of his crime, as set forth in Factual Findings 5 and 6.  
[Subsection (m)];
- (7) Respondent has had a change in attitude since his conviction, as set forth in Factual Finding 5.  
[Subsection (n)].

3. Additionally, since his conviction Respondent has been placed in a position of trust wherein he had access to Los Angeles Times customers' credit card information, and there was no evidence that he misused that information. This weighs toward a finding of rehabilitation.



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: December 15, 2004

  
\_\_\_\_\_  
JULIE CABOS-OWEN  
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-31103 LA  
DARRYL RICHARD WEST, ) OAH No. L-2004080409  
Respondent

FILED  
SEP 09 2004  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By [Signature]

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 THURSDAY, NOVEMBER 4, 2004, 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  
[Signature]  
KELVIN K. LEE, Counsel

Dated: September 9, 2004

cc: Darryl R. West  
MulHearn Realtors  
Sacto.  
OAH  
RE 500 (Rev. 8/97).

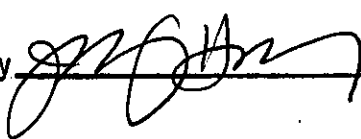
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KELVIN K. LEE, Real Estate Counsel (SBN 152867)  
Department of Real Estate  
320 West 4th Street, Suite 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6982  
(Direct) (213) 576-6905

**FILED**  
JUL 27 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of	)	NO. H- 31103 LA
	)	
DARRYL RICHARD WEST,	)	<u>STATEMENT OF ISSUES</u>
	)	
Respondent.	)	
	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against DARRYL RICHARD WEST ("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.

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II

1  
2 Respondent made application to the Department of Real  
3 Estate of the State of California for a real estate salesperson  
4 license on or about January 12, 2004 with the knowledge and  
5 understanding that any license issued as a result of said  
6 application would be subject to the conditions of Business and  
7 Professions Code ("Code") Section 10153.4.

8 III

9 (CRIMINAL CONVICTIONS)

10 On or about September 17, 1999, in the Municipal Court  
11 of Los Angeles County, State of California, in Case No. 9WL02976  
12 Respondent DARRYL RICHARD WEST, was convicted of one (1) count  
13 of violating California Penal Code Section 470 (Forgery). This  
14 is a crime involving moral turpitude which is substantially  
15 related under Title 10, Chapter 6, Section 2910, subdivisions  
16 (a)(8), (a)(10) and (a)(11), California Code of Regulations, to  
17 the qualifications, functions or duties of a real estate  
18 licensee.  
19

20 IV

21 In aggravation of the above, on or about April 17,  
22 2003, in the Superior Court of California, Los Angeles County,  
23 in case no. 3LL02590, Respondent DARRYL RICHARD WEST, was  
24 convicted of one (1) count of violating California Vehicle Code  
25 Section 22350 (Driving at an Unsafe Speed).

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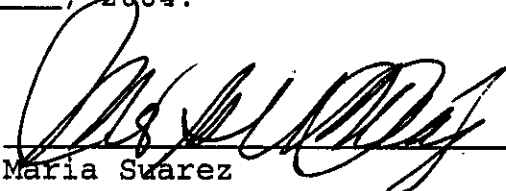
The crime of which Respondent was convicted, as alleged herein above in Paragraph III, constitutes cause for denial of Respondent's application for a real estate license under Code Sections 475(a)(2), 480(a)(1) and/or 10177(b).

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

WHEREFORE, 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, DARRYL RICHARD WEST, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California

this 22<sup>nd</sup> day of July, 2004.

  
\_\_\_\_\_  
Maria Suarez  
Deputy Real Estate Commissioner

cc: DARRYL RICHARD WEST  
Mulhearn Realtors/Bruce Mulhearn  
Maria Suarez  
Sacto.  
GD