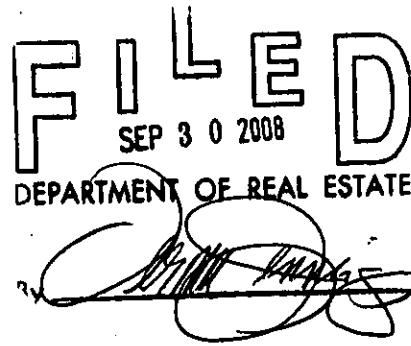




BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-31104 LA
ANDRES QUESADA PALACIOS,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On February 2, 2005, 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 April 20, 2005.

On or about August 14, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for removal of restrictions is granted and that a
10 real estate salesperson license be issued to Respondent subject
11 to the following understanding and conditions:

12 1. The license issued pursuant to this order shall
13 be deemed to be the first renewal of Respondent's real estate
14 salesperson license for the purpose of applying the provisions
15 of Section 10153.4.

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

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

20 (b) Submit evidence of having taken and successfully
21 completed the courses specified in subdivisions (a) (1),
22 (2), (3), (4) and (5) of Section 10170.5 of the Real Estate
23 Law for renewal of a real estate license.

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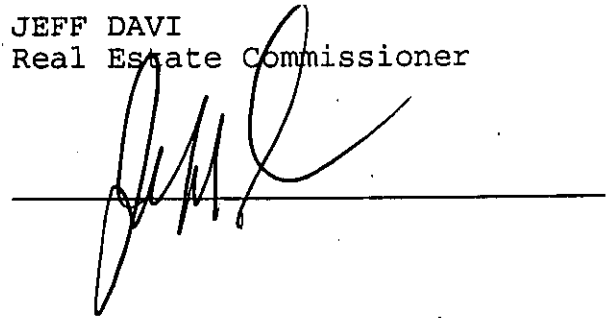
1 3. Upon renewal of the license issued pursuant to
2 this order, Respondent shall submit evidence of having taken and
3 successfully completed the continuing education requirements of
4 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
5 real estate license.

6 This Order shall be effective immediately.

7 Dated: 4-18-08

8 JEFF DAVI
9 Real Estate Commissioner

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FILED
FEB 09 2005

DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)

ANDRES QUESADA PALACIOS ,)

Respondent.)

NO. H-31104LA
L-2004080407

STIPULATION AND WAIVER

AND

DECISION AFTER REJECTION

I, ANDRES QUESADA PALACIOS, Respondent herein,
acknowledge that I have received and read the Statement of
Issues filed by the Department of Real Estate on July 27, 2004,
and the Statement to Respondent sent to me in connection with
the Statement of Issues.

I hereby admit that the allegations contained in
Paragraphs I through IV of the Statement of Issues filed against
me are true and correct and constitute a basis for the denial of
my real estate salesperson license application.

1 I further acknowledge that the Real Estate
2 Commissioner held a hearing on this Statement of Issues on
3 November 3, 2004, before the Office of Administrative Hearings
4 for the purpose of proving the allegations therein. I was
5 present at the hearing in which I was represented by myself and
6 participated therein. Further, I have had an opportunity to
7 read and review the Proposed Decision of the Administrative Law
8 Judge.

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

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

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1 I hereby request that the Real Estate Commissioner in
2 his discretion deny my real estate salesperson license
3 application and issue to me a restricted real estate salesperson
4 license under the authority of Section 10156.5 of the Business
5 and Professions Code.

6 I further understand that the restricted license shall
7 be subject to the provisions of Section 10156.7 of the Business
8 and Professions Code and the following conditions, limitations
9 and restrictions will attach to the restricted license issued by
10 the Department of Real Estate pursuant hereto:

11 1. The restricted license issued to Respondent,

12 (a) may be suspended prior to hearing by Order of the
13 Real Estate Commissioner in the event of Respondent's conviction
14 (including a plea of nolo contendere) to a crime which is
15 substantially related to Respondent's qualifications, fitness or
16 capacity as a real estate licensee.

17 (b) may be suspended prior to hearing by Order of the
18 Real Estate Commissioner on evidence satisfactory to the
19 Commissioner that Respondent has violated provisions of the
20 California Real Estate Law, the Subdivided Lands Law,
21 Regulations of the Real Estate Commissioner, or the conditions
22 attaching to this restricted license.

23 2. Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license nor for the
25 removal of any of the conditions, limitations or restrictions
26 of a restricted license until two (2) years has elapsed from the
27 effective date of this Decision.

1 3. With the application for license, or with the
2 application for transfer to a new employing broker, Respondent
3 shall submit a statement signed by the prospective employing
4 real estate broker on a form RE 552 approved by the Department
5 of Real Estate which shall certify as follows:

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

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

14 4. Respondent's restricted real estate salesperson
15 license is issued subject to the requirements of Section
16 10153.4 of the Business and Professions Code, to wit:
17 Respondent shall, within eighteen (18) months of the issuance
18 of the restricted license, submit evidence satisfactory to the
19 Commissioner of successful completion, at an accredited
20 institution, of two (2) of the courses listed in Section
21 10153.2, other than real estate principles, advanced legal
22 aspects of real estate, advanced real estate finance or
23 advanced real estate appraisal. If Respondent fails to timely
24 present to the Department satisfactory evidence of successful
25 completion of the two required courses, the restricted license
26 shall be automatically suspended effective eighteen (18) months
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1 after the date of its issuance. Said suspension shall not be
2 lifted unless, prior to the expiration of the restricted
3 license, Respondent has submitted the required evidence of
4 course completion and the Commissioner has given written notice
5 to Respondent of lifting of the suspension.

6 5. Pursuant to Section 10154, if Respondent has not
7 satisfied the requirements for an unqualified license under
8 Section 10153.4, Respondent shall not be entitled to renew the
9 restricted license, and shall not be entitled to the issuance
10 of another license which is subject to Section 10153.4 until
11 four (4) years after the date of the issuance of the preceding
12 restricted license.

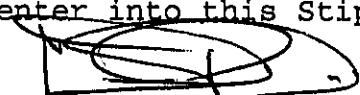
13 1/10/05
14 DATED

13 
14 KELVIN K. LEE, Counsel
15 Department of Real Estate

16 * * *

17 I have read the Stipulation. Its terms are
18 understood by me and are agreeable and acceptable to me. I
19 willingly and voluntarily agree to enter into this Stipulation.

20 1/1/05
21 DATED

20 
21 ANDRES QUESADA PALACIOS,
22 Respondent

23 Approved as to Form

24 * * *

25 Respondent can signify acceptance and approval of the
26 terms and conditions of this Stipulation by faxing a copy of
27

1 the signature page, as actually signed by Respondent, to the
2 Department at the following fax number: (213) 576-6917.

3 Respondent agrees, acknowledges and understands that by
4 electronically sending to the Department a fax copy of his
5 actual signature as it appears on the Stipulation, that
6 receipt of the fax copy by the Department shall be as binding
7 on him as if the Department had received the original signed
8 Stipulation.

9 * * *

10 I have read the Statement of Issues filed herein, the
11 Proposed Decision of the Administrative Law Judge dated November
12 16, 2004, and the foregoing Stipulation and Waiver signed by
13 Respondent. I am satisfied that it will not be inimical to the
14 public interest to issue a restricted salesperson license to
15 Respondent.

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

8 This Order shall become effective on March 1, 2005.

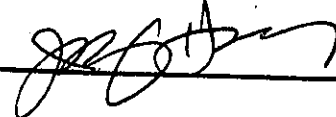
9 IT IS SO ORDERED 2-2-05.

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11 JEFF DAVI
12 Real Estate Commissioner
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FILED
DEC 17 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)

No. H-31104 LA

ANDRES QUESADA PALACIOS,)

L-2004080407

Respondent.)

NOTICE

TO: ANDRES QUESADA PALACIOS, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated November 16, 2004, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated November 16, 2004, is attached for your information.

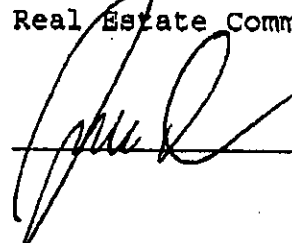
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on November 3, 2004, and any written argument hereafter submitted on behalf of Respondent and Complainant.

1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of November 3, 2004, at the Los Angeles office
4 of the Department of Real Estate unless an extension of the time
5 is granted for good cause shown.

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

11 DATED: 12-16-04, 2004

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13 JEFF DAVI
14 Real Estate Commissioner
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

Case No. H-31012 LA

ANDRES QUESADA PALACIOS,

OAH Case No. L2004080407

Respondent.

PROPOSED DECISION

This matter came on regularly for hearing before Mark T. Roohk, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California on November 3, 2004.

Kelvin Lee, Real Estate Counsel, represented Complainant Maria Suarez (Complainant).

Respondent Andres Quesada Palacios (Respondent) was present throughout the hearing and represented himself.

Oral and documentary evidence was received, the matter argued, the record was closed at the conclusion of the hearing and the case submitted for decision.

FACTUAL FINDINGS

1. Complainant Maria Suarez, Deputy Real Estate Commissioner of the State of California, made and filed the Statement of Issues in this proceeding in her official capacity and not otherwise.

2. Respondent Andres Quesada Palacios filed an application with the Department of Real Estate (Department) on or about January 22, 2004, for the issuance of a Real Estate Salesperson License in accordance with the provisions of Business and Professions Code section 10153.4. The application was denied. Respondent appealed the denial, and this hearing followed.

3. On May 29, 1998, Respondent was convicted in case number FWV012732 of the Municipal Court of the State of California, County of San Bernardino, on his plea of nolo contendere to one counts of violating Health and Safety Code section 11359 (possession of marijuana for sale), a felony and a crime that is substantially related to the qualifications, functions, and duties of a real estate salesperson. Respondent was placed on formal probation for three years under certain terms and conditions, including but not limited to serving 90 days in county jail, payment of a restitution fine of \$200, and various restrictions and reporting requirements.

4. The facts and circumstances underlying the conviction are that in 1997, Respondent was at a public park attending a family picnic when he was approached by police officers. The officers informed Respondent that they had received an anonymous phone tip that he was selling drugs at the park and asked Respondent for permission to search his vehicle. Respondent gave his permission, and the officers discovered a large quantity of marijuana under the front passenger seat. The marijuana was packaged in several small baggies that were contained in a larger bag that was taped shut.

5. Respondent successfully completed all terms of his probation in a timely manner without violation. In April 2001, approximately four months prior to the scheduled termination of probation and with the support of his probation officer, Respondent's probation was terminated by order of the court and his conviction was dismissed, pursuant to Penal Code section 1203.4. (Exhibits 3 and 4.)

6. In regard to his conviction, Respondent denies all culpability for the marijuana that was found in his vehicle. He maintains that he has neither used drugs nor sold them at any time in his life, and that the reason he gave the officers permission to search his vehicle was because he believed he had nothing to hide. He does not know how the marijuana got in his vehicle, or who was responsible for it being there, but suspects it was the individual who phoned the tip into the police. At the time, Respondent was working as a security officer in a low-income housing project where he was often required to call the police on the residents for altercations and misconduct; in retaliation, Respondent's car had been broken into and its tires slashed on more than one occasion, so he believes the anonymous tip could have been one more type of retaliation. Given the fact that Respondent has had no other convictions either before or since, as well as the circumstances under which he was arrested, his testimony on this issue is found to be essentially credible.

7. Prior to his arrest, Respondent had been planning on a career in law enforcement, and was getting ready to attend the Upland Police Department Academy. Once he was convicted, he was no longer eligible for the Academy, and instead went to work for a precious metals firm as a laborer preparing alloys. He remained there for approximately 7 years, until early 2004; he was terminated from his position after reporting the firm to the Labor Commission for unfair work practices. Respondent is currently drawing unemployment and awaiting the results of this process.

8. Respondent is married and has a 14-month old son. In preparation for obtaining his license, he has taken real estate classes at Mt. San Antonio College, but has only completed the Real Estate Principles course; he has also taken other general education courses. He has a standing offer of employment from his sponsoring broker, TMG Financial Services, but indicates he would also like to look into other employment opportunities should he be issued a license. He most wishes to obtain a license so he can support and provide for his family.

9. Respondent's father testified at the hearing and concurred with Respondent's testimony regarding the circumstances underlying his conviction. He also attested to Respondent's good character, as did several family friends who submitted letters on Respondent's behalf, all characterizing him as hard-working, honest, and reliable. (Exhibits A, B, C, D, and E.)

LEGAL CONCLUSIONS

Cause exists to deny Respondent's application for a real estate salesperson's license pursuant to the provisions of Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), for conviction of a crime substantially related to the qualifications, functions, or duties of a real estate license, as set forth in Factual Findings 3 and 4.

As part of the regulations governing the practice of real estate in the State of California, the Department has developed certain criteria, set forth in the California Code of Regulations, title 10, Section 2911, for the purpose of evaluating the rehabilitation of an applicant in considering whether or not to deny the issuance of a license on account of a conviction. As applied to this case, the criteria assist in the process of evaluating evidence of rehabilitation submitted by the Respondent.

A review of those criteria applicable to Respondent's circumstances reveals she has substantially satisfied each of the following:

A. The Guidelines recommend the passage of not less than two (2) years since the most recent criminal conviction. Respondent's conviction occurred in 1998, over 6 years ago.

B. The Guidelines recommend considering payment of restitution. Respondent has made all payments required of him by the court.

C. The Guidelines recommend considering successful completion or early termination of probation. Respondent successfully completed his probation without any violation, and his probation was terminated several months early.

D. The Guidelines recommend considering any expungement of convictions. Respondent's conviction was expunged in 2001.

E. The Guidelines recommend considering stability of family life. Since his conviction, Respondent has married and fathered a child. He also has the support of what appears to be a very tight-knit family.

F. The Guidelines recommend considering completion of educational or training courses. Since his probation, Respondent has taken courses in both real estate and general education. However, he has only completed one of those real estate courses.

G. The Guidelines recommend considering a change in attitude since the conviction. Complainant maintains that, because Respondent denies any knowledge of the marijuana that was found in his car, yet nevertheless accepted a plea agreement to a felony rather than to a lesser included offense, there is a substantial question regarding his attitude. This argument is rejected. Regarding the former point, Respondent's testimony as to his lack of knowledge is credible based on the evidence presented; regarding the latter point, Respondent testified that he was not offered a plea to a lesser included offense. Overall, while Respondent clearly believes that he was "set up" for the conviction, he does appear to have learned from the experience, and as such will be even less likely to engage in illegal conduct should he obtain his license.

As set forth above, Respondent has satisfied most of the applicable criteria for rehabilitation. Although Complainant's argument regarding Respondent's attitude has been rejected, there does exist a legitimate concern as to how Respondent permitted such a large amount of marijuana to be placed in his car without his knowledge, or indeed without even knowing it. However, this concern goes more to Respondent's possible ignorance than to his possible malfeasance. Based on the evidence presented at hearing, Respondent does not pose such a risk that it would be against the public interest to issue him a salesperson license. However, given the concern expressed above, and the very limited amount of experience Respondent has in working in any real estate or real estate-related field, it would be most appropriate if Respondent were issued that license with terms and conditions.

ORDER

The application of Respondent Andres Quesada Palacios 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 Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code, as well as to the following limitations, conditions, and restrictions:

1. 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 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 present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective 18 months after issuance. Said suspension shall not be lifted until Respondent has submitted the required proof of course completion and the Commissioner has given written notice to Respondent of the lifting of the suspension.

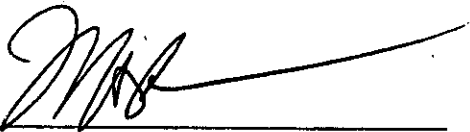
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until 18 months have elapsed from the effective date of this Decision.

3. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker on a form approved by the Department of Real Estate, which shall certify:

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 activities for which a real estate license is required.

DATED: 11/16/09


MARK T. ROOHK
Administrative Law Judge
Office of Administrative Hearings

5010

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-31104 LA
ANDRES QUESADA PALACIOS,) OAH No. L-2004080407
_____) Respondent

FILED
SEP 09 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent(s):

By [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 WEDNESDAY, NOVEMBER 3, 2004, at the hour of 11:00 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: September 9, 2004

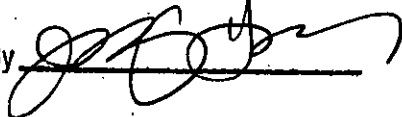
By [Signature]
KELVIN K. LEE, Counsel

cc: Andres Q. Palacios
TMG Financial Services Inc.
Sacto.
OAH

5/27/04
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-31104 LA
	)	
ANDRES QUESADA PALACIOS,	)	<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 ANDRES QUESADA PALACIOS ("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

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about January 26, 2004 with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code ("Code") Section 10153.4.

III

(CRIMINAL CONVICTIONS)

On or about July 1, 1998, in the Superior Court of the State of California, County of San Bernardino, in case No. FWV012732, Respondent ANDRES QUESADA PALACIOS, was convicted of one (1) count of violating California Health and Safety Code Section 11359 (Possession of Marijuana with the Intent to Sell or Distribute). This is a crime involving moral turpitude which is substantially related under Title 10, Chapter 6, Section 2910, subdivisions (a)(8), (a)(10) and (a)(11), California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

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).

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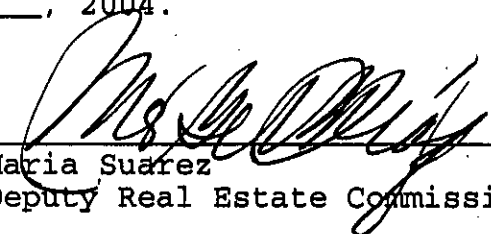
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1 The Statement of Issues is brought under the
2 provisions of Section 10100, Division 4 of the Business and
3 Profession Code of the State of California and Sections 11500
4 through 11528 of the Government Code.

5 WHEREFORE, Complainant prays that the above entitled
6 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, ANDRES QUESADA PALACIOS, and for such
10 other and further relief as may be proper under other provisions
11 of law.

12 Dated at Los Angeles, California

13 this 22nd day of July, 2004.

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15 
16 Maria Suarez
Deputy Real Estate Commissioner

17 cc: ANDRES QUESADA PALACIOS
18 Maria Suarez
19 TMA Financial Services Inc./Kirk L. Conrad
20 Sacto.
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