

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

FILED

JUN 26 2010

DEPARTMENT OF REAL ESTATE

By L. Ziri

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of

ALBERT ARANA,

Respondent.

No. H-31647 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On September 14, 2005, a Decision was rendered revoking the real estate salesperson license of Respondent, but providing Respondent the right to apply for and be issued a restricted real estate salesperson license. Respondent was issued a restricted license on February 3, 2006. It had been determined that there was cause to revoke Respondent's license pursuant to Business and Professions Code Section 490, for conviction of a crime..

On or about August 12, 2009, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate salesperson license at this time.

1           The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*  
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and  
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the  
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5           The Department has developed criteria in Section 2911 of Title 10, California  
6 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for  
7 reinstatement of a license. Among the criteria relevant in this proceeding are:

8                     Regulation 2911(h) – Stability of family life and fulfillment of parental and  
9 familial responsibilities:

10                    Respondent has not provided such proof, including proof that Respondent is  
11 current in child support payments.

12                    Regulation 2911(l) – Significant or conscientious involvement in community,  
13 church or social programs:

14                    Respondent has not provided such proof.

15                    Regulation 2911(n) Change in attitude from that which existed at the time of the  
16 conduct in question as evidenced by any or all of the following:

17                    (1)   Testimony of applicant.

18                    Respondent has provided an incomplete Petition Application.

19                    Given the violations found and the fact that Respondent has not established that  
20 Respondent has complied with Regulations 2911 (h), (l) and (n), I am not satisfied that  
21 Respondent is sufficiently rehabilitated to receive an unrestricted real estate license.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

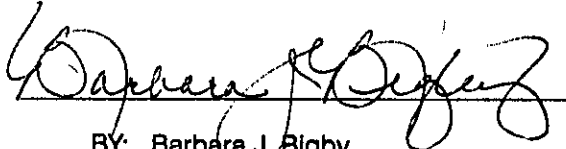
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for  
reinstatement of Respondent's real estate license is denied.

This Order shall become effective at 12 o'clock noon on JUL 16 2010

IT IS SO ORDERED 4-28-10

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

non

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**FILED**

FEB 15 2007

DEPARTMENT OF REAL ESTATE  
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
	) NO. H-31647 LA
	)
ALBERT ARANA )	
	)
Respondent )	
)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: NAME: ALBERT ARANA

On November 10, 2005, respondent's real estate salesperson license was revoked with the right to a restricted license. On the same date, a restricted real estate salesperson license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Decision, in case No. H-31647 LA. This Order granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business

1 and Professions Code and to enumerated additional terms,  
2 conditions and restrictions imposed under authority of Section  
3 10156.6 of said Code. Among those terms, conditions and  
4 restrictions, Respondent was required, within nine months from  
5 November 10, 2005, to present evidence satisfactory to the  
6 Real Estate Commissioner that Respondent has taken and  
7 successfully completed the continuing education requirements  
8 of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
9 of a real estate license. The Commissioner has determined  
10 that Respondent has failed to satisfy these conditions, and as  
11 such, is in violation of Section 10177(k) of the Business and  
12 Professions Code. Respondent has no right to renew the  
13 restricted license if this condition is not satisfied by the  
14 date of its expiration (Section 10156.7 of the Business and  
15 Professions Code).

16 NOW, THEREFORE, IT IS ORDERED under authority of  
17 Section 10156.7 of the Business and Professions Code of the  
18 State of California that the restricted real estate  
19 salesperson license heretofore issued to respondent and the  
20 exercise of any privileges thereunder is hereby suspended  
21 until such time as Respondent provides proof satisfactory to  
22 the Department of having taken and successfully completed the  
23 continuing education requirements, as referred to above, or  
24 pending final determination made after hearing (see "Hearing  
25 Rights" set forth below).

26 ///

27 ///

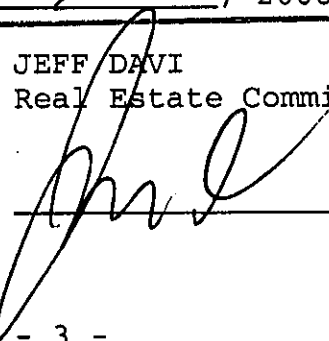
1 IT IS FURTHER ORDERED that all license certificates  
2 and identification cards issued by Department which are in the  
3 possession of respondent be immediately surrendered by  
4 personal delivery or by mailing in the enclosed, self-  
5 addressed envelope to:

6 Department of Real Estate  
7 Attn: Flag Section  
8 P. O. Box 187000  
9 Sacramento, CA 95818-7000

10 HEARING RIGHTS: Pursuant to the provisions of Section  
11 10156.7 of the Business and Professions Code, you have the  
12 right to a hearing to contest the Commissioner's determination  
13 that you are in violation of Section 10177(k). If you desire  
14 a hearing, you must submit a written request. The request may  
15 be in any form, as long as it is in writing and indicates that  
16 you want a hearing. Unless a written request for a hearing,  
17 signed by or on behalf of you, is delivered or mailed to the  
18 Department at 320 West Fourth Street, Suite 350, Los Angeles,  
19 California, within 20 days after the date that this Order was  
20 mailed to or served on you, the Department will not be  
21 obligated or required to provide you with a hearing.

22 This Order shall be effective immediately.

23 DATED: 1-3, 2008

24 JEFF DAVI  
25 Real Estate Commissioner  
26   
27 \_\_\_\_\_

SAC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**FILED**  
NOV 10 2005  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	NO. H-31647 LA
ALBERT ARANA, )	L-2005050078
Respondent. )	

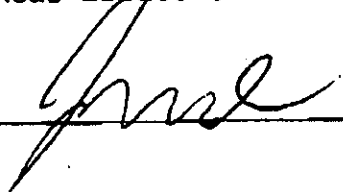
ORDER DENYING RECONSIDERATION

On September 14, 2005, a Decision was rendered in the above-entitled matter. The Decision was to become effective on October 11, 2005, and was stayed by separate Order to November 10, 2005, to allow Respondent to file a petition for reconsideration.

I find no good cause to reconsider the Decision of September 14, 2005, and reconsideration is hereby denied.

IT IS SO ORDERED 11-905

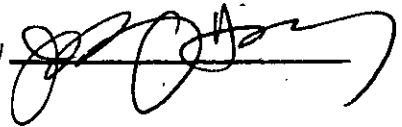
JEFF DAVI  
Real Estate Commissioner



7/20/05

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**FILED**  
OCT 11 2005  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	NO. H-31647 LA
ALBERT ARANA,	) L-2005050078
Respondent.	)

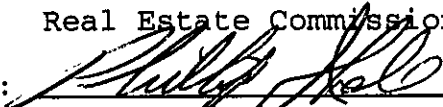
ORDER STAYING EFFECTIVE DATE

On September 14, 2005, a Decision was rendered in the above-entitled matter to become effective October 11, 2005.

IT IS HEREBY ORDERED that the effective date of the Decision of September 14, 2005, is stayed for a period of thirty (30) days to allow Respondent ALBERT ARANA to file a petition for reconsideration.

The Decision of September 14, 2005, shall become effective at 12 o'clock noon on November 10, 2005.

DATED: October 11, 2005.

JEFF DAVI  
Real Estate Commissioner  
By:   
PHILLIP IHDE  
Regional Manager



**FILED**  
SEP 21 2005  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

By \_\_\_\_\_

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-31647 LA
ALBERT ARANA, )	L-2005050078
Respondent. )	
_____)	

DECISION

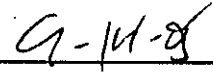
The Proposed Decision dated August 22, 2005, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.


The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on October 11, 2005.

IT IS SO ORDERED \_\_\_\_\_



JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

**BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ALBERT ARANA,

Real Estate Salesperson License  
No. 00710950,

Respondent.

Case No. H-31647 LA

OAH No. L2005050078

**PROPOSED DECISION**

Robert S. Eisman, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California, on July 19, 2005.

Martha J. Rosett, Staff Counsel, represented Deputy Real Estate Commissioner Maria Suarez (complainant).

Albert Arana (respondent) appeared and represented himself.

Evidence was received and the case argued, but the record was held open until August 1, 2005, to allow respondent an opportunity to submit additional exhibits. Respondent submitted additional exhibits on July 29, 2005, which are identified as respondent exhibits W through Z. The administrative law judge provided complainant with a copy of the exhibits and instructions to file any objections thereto by August 15, 2005. There being no objection, the exhibits were received in evidence, the record was closed, and the matter submitted on August 15, 2005.

**FACTUAL FINDINGS**

1. The Administrative Law Judge takes official notice that complainant Maria Suarez filed the Accusation while acting in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. The Department of Real Estate licensed respondent as a salesperson, License No. 00710950. He has been licensed since at least January 1, 1995.<sup>1</sup> The license is currently active and is due to expire on April 6, 2006.

3. On April 9, 2004, in the Superior Court of California, County of Los Angeles, in Case No. 3AL04783, *People v. Albert Arana*, the court convicted respondent, on a negotiated plea of nolo contendere, of violating Penal Code section 243, subdivision (e)(1), battery against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, a misdemeanor offense.

The court suspended imposition of sentence and placed respondent on probation for a term of 48 months with terms and conditions including: serve 30 days in the county jail, obey all laws and orders of the court, pay a fine and restitution, enroll in and complete domestic violence counseling sessions, and enroll in an Alcoholics Anonymous program. Respondent was also to comply with a protective order previously issued by the court and that remained in effect.

The facts and circumstances leading to the arrest and conviction are that on December 12, 2003, respondent committed a battery against Millie Torres, the mother of three of respondent's children. On the December 15, 2003, the court issued a protective order requiring that respondent stay at least 100 yards away from and not harass or annoy Millie Torres or her daughter. The evidence did not establish to what degree respondent battered Millie Torres. (See Factual Finding 7; Legal Conclusion 6).

4. On September 27, 2002, in the Superior Court of California, County of Los Angeles, in Case No. 2RH404922, *People v. Albert Arana*, the court convicted respondent on a plea of guilty of violating Penal Code section 415, disturbing the peace, a misdemeanor offense.

The court suspended imposition of sentence and placed respondent on summary probation for two (2) years under terms and conditions including: obey all laws, pay a fine, and get tested for acquired immunodeficiency syndrome (AIDS).

The facts and circumstances leading to the arrest and conviction are that on July 9, 2002, respondent unlawfully solicited an undercover female police officer to engage in an act of prostitution.

///

---

<sup>1</sup> The accusation alleges that respondent was first licensed as a real estate salesperson on or about July 4, 1979. However, during the hearing complainant did not present evidence of respondent's initial licensure.

5. Respondent is now 48 years old, divorced, with three young children that are the subjects of a contested child custody proceeding involving respondent and Millie Torres, the mother of their three children. Respondent also has an older daughter and son from a prior marriage. Ms. Torres has two other daughters, one of whom was referred to in the court's protective order of December 12, 2005.

6. Respondent first met Ms. Torres in 1997 and their first son was born a year later. Due to Ms. Torres' drug addiction, their son was born with methamphetamines in his blood and respondent was immediately given custody of the infant. Although their relationship was tenuous from the outset and they had two other children together, beginning in about 2000 their relationship became very contentious.

7. Respondent claims that he did not batter Ms. Torres on December 12, 2003, but believes that she and her daughter planned to entrap him by making false allegations. Respondent agreed to accept a plea bargain in the related court case because of the cost of continued litigation and the advice of counsel (i.e., that it would cost respondent \$10,000 to go to trial and accepting the plea agreement would not affect his family law/custody matter.) Since respondent did not have enough money to continue litigating the criminal matter, he accepted the plea agreement.

In the aftermath of the December 12, 2003, incident, Ms. Torres sought numerous charges against respondent for violations of the protective order. The violations involve alleged incidents related to respondent's contact with their children and the court's order to "stay at least 100 yards away from the person, place of residence, place of business and/or schooling of Millie Torres . . . ." Respondent alleges that these charges are frivolous and unfounded and are intended to harass him. Respondent claims that Ms. Torres' actions are part of a scheme to discredit him in family court so that she can obtain permanent custody of their children and relocate with them to Montana. In turn, respondent obtained protective orders preventing Ms. Torres from removing their children from Los Angeles County and preventing members of the Monrovia Police Department from harassing or annoying him.

8. Respondent presented letters of reference from business associates and friends including a senior associate at Coldwell-Banker Commercial, the in-house legal counsel at Re/Max Tri-City, and the pediatrician who evaluates his children. The letters describe respondent as being professional, courteous, and diligent, with an excellent work ethic. The predominant theme in the letters is respondent's love and care for his children. Respondent has also enrolled in and attends a domestic violence batterer's program. As of June 20, 2005, he has attended 36 of 52 court-ordered sessions.

///

///

///

## LEGAL CONCLUSIONS

1. The standard of proof in this proceeding is "clear and convincing evidence to a reasonable certainty," meaning that complainant is obliged to adduce evidence that is clear, explicit, and unequivocal -- so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. ((*Ettinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal.App.3d 853; *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1893; *In Re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Business and Professions Code section 490 provides that the Department of Real Estate may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime "is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

3. Business and Professions Code section 493 provides that in a proceeding by the Department of Real Estate to take disciplinary action against a person who holds a license, upon the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee,

the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

4. California Code of Regulations, title 10, section 2910, sets forth various criteria to be considered in determining if a crime or act is substantially related to the qualifications, functions, or duties of a licensee. Under subdivision (a)(8), the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department of Real Estate if it involves the "doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another."

5. Under Penal Code section 242, battery is defined as any willful and unlawful use of force or violence upon the person of another. Battery is also defined as the application of force to another, resulting in harmful or offensive contact. (Black's Law Dict. (7th ed. 1999) p. 146.) Therefore, battery upon a person who is the parent of the one's child is a form of domestic violence that, by its very nature, involves the intent or threat of doing substantial injury to that person.

///

6. Although respondent now argues that he did not batter Ms. Torres on December 12, 2003, respondent's arguments are not persuasive. The issue of Respondent's guilt may not be re-litigated. Respondent's entry of the plea of *nolo contendere* in his criminal case is conclusive evidence of guilt upon which the administrative law judge must rely.

The licensee, of course, should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation. . . . [A]n inquiry into the circumstances surrounding the offense "should not form the basis of impeaching a prior conviction." (*Matanky v. Board of Medical Examiners* (1978) 79 Cal.App.3d 293, 302 [144 Cal.Rptr. 826].) . . . In the present case, petitioner was given the opportunity of reviewing the circumstances of his offense as well as his efforts toward rehabilitation. No relevant mitigating evidence was refused consideration, although appellant properly was not permitted to impeach his conviction by explaining the "true" reasons for his *nolo contendere* plea. Regardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged. To hold otherwise would impose upon administrative boards extensive, time-consuming hearings aimed at relitigating criminal charges which had culminated in final judgments of conviction. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

Neither party established sufficient factual basis for the nature and extent of respondent's conduct in the battery against Ms. Torres. The Administrative Law Judge relies on the conviction as conclusive evidence of appellant's guilt of the charged offense.

7. Respondent's 2004 conviction for battery against Ms. Torres is substantially related to the qualifications, functions or duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8). (Factual Findings 3 and 5; Legal Conclusions 4 and 5.)

8. Complainant established by clear and convincing evidence to a reasonable certainty that respondent's license as a real estate salesperson is subject to discipline for a violation of Business and Professions Code section 490, based on his 2004 conviction for battery against a person who is the parent of respondent's child. (Factual Findings 3 and 5; Legal Conclusions 2 through 7.)

9. Respondent's 2002 conviction for disturbing the peace is based on conduct involving solicitation of prostitution. However, complainant did not establish the required nexus between either the charged offense or the underlying conduct with the qualifications, functions, or duties of a real estate salesperson. The offense does not involve respondent's real estate sales activities and it does not affect his ability to practice

his profession. Therefore, this conviction is neither considered a basis for discipline, nor is it considered an aggravating circumstance when considering the degree of discipline, if any, to be imposed on respondent's license.

10. The Department of Real Estate has established criteria for rehabilitation from conviction of a crime to be considered in a disciplinary proceeding. The rehabilitation criteria applicable to this matter are found at California Code of Regulations, title 10, section 2911, and are summarized as follows:

- Passage of at least two years since the most recent criminal conviction or act
- Expungement of criminal convictions
- Successful completion or early discharge from probation or parole
- Abstinence for at least two years from the use of controlled substances or alcohol
- Family life stability of and fulfillment of parental and familial responsibilities
- Completion of, or enrollment in, formal education or vocational training courses
- Involvement in community, church or privately-sponsored programs
- Change in attitude, as evidenced by applicant / respondent and other persons knowledgeable and competent to testify and absence of subsequent convictions

11. It has been less than two years since respondent's 2004 conviction and respondent is not scheduled to complete probation until April 2008. (Factual Finding 3.)

Respondent's family life is anything but stable. Rather, it appears to be marked by constant stress and bitterness, with three children caught in the middle, a most unfortunate situation. (Factual Findings 6 and 7.)

Respondent denies the conduct for which he was convicted in 2004, and it is not known whether he is actually doing everything possible to remain in compliance with the court's protective order regarding his contacts with Ms. Torres.

Based on the record, rehabilitation has not been established.

12. In mitigation, respondent appears to be sincerely interested in the welfare of his children. All his legal problems stem from the child custody issues he is trying to resolve in his favor. No doubt the legal wrangling and stresses that affect respondent will continue until the family court matter is resolved.

There is no indication that respondent's family court or criminal proceedings have had an adverse impact on his profession. Respondent has not been previously disciplined and there are no known complaints from consumers regarding his practice as a real estate salesperson. (Factual Finding 8.)

///

13. The objective of a disciplinary proceeding is to protect the public, the licensed profession or occupation, maintain integrity, high standards, and preserve public confidence in real estate salespersons.<sup>2</sup> The purpose of proceedings of this type is not to punish respondent. In particular, the statutes relating to real estate licensees are designed to protect the public from any potential risk of harm.<sup>3</sup>

14. Complainant has not established that the public's interest would be placed in significant risk of harm or injury if respondent is allowed to retain a properly restricted salesperson's license. Acts of domestic violence are associated with rage or passion limited to the parties within a domestic relationship. There is no evidence to suggest that type of conduct would extend beyond that relationship or affect respondent's duties as a real estate salesperson.

When the whole record is considered, it appears that the public can be protected by a probationary order that allows respondent to continue in his profession, but provides a means for the agency to revoke his license if respondent is not able to comply with the terms and conditions of a restricted license.

### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Albert Arana under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

---

<sup>2</sup> *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

<sup>3</sup> *Lopez v. McMahan* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.



2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

3. 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 two years have elapsed from the effective date of this Decision.

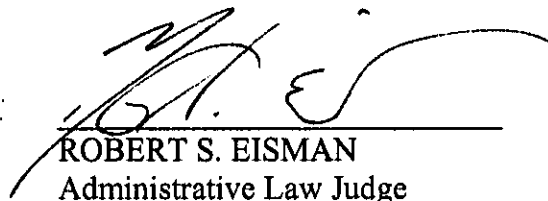
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, 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. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

August 22, 2005.

  
ROBERT S. EISMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 MARTHA J. ROSETT, Counsel (SBN 142072)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013-1105

4 (213) 576-6982  
5 (213) 576-6907

FILED  
FEB - 2 2005  
DEPARTMENT OF REAL ESTATE

6  
7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 ALBERT ARANA, )  
14 Respondent. )

No. H-31647 LA

A C C U S A T I O N

15  
16 The Complainant, Maria Suarez, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against ALBERT ARANA (hereinafter "Respondent"), is informed and  
19 alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation in  
23 her official capacity.

24 2.

25 At all times herein mentioned, Respondent was and still  
26 is licensed and/or has license rights under the Real Estate Law  
27 (Part 1 of Division 4 of the Business and Professions Code) as a

1 real estate salesperson. Respondent was first licensed by the  
2 Department on or about July 4, 1979.

3 3.

4 On or about April 9, 2004, in the Superior Court of  
5 California, County of Los Angeles, in Case No. 3AL04783,  
6 Respondent was convicted upon a plea of nolo contendere to  
7 violating one count of Penal Code (PC) 243(e)(1) (Battery Against  
8 Former Spouse/Fiancée), a misdemeanor and crime which is  
9 substantially related to the qualifications, functions and duties  
10 of a real estate licensee pursuant to Title 10, Chapter 6 of the  
11 California Code of Regulations, Regulation 2910(a)(8).

12 Respondent was placed on summary probation for a period of four  
13 years, to include 30 days in county jail, and pay fines totaling  
14 \$320.00 to the court. In addition, Respondent was required to  
15 enroll and complete domestic violence counseling sessions, and  
16 enroll in an AA program with one session per week for six months.

17 Factor in Aggravation

18 4.

19 On or about September 27, 2002, in the Superior Court  
20 of California, County of Los Angeles, in Case No. 2RH04922,  
21 Respondent was convicted upon a plea of guilty to violating one  
22 count of Penal Code Section 415 (Disturbing the Peace), a  
23 misdemeanor. Respondent was placed on summary probation for a  
24 period of two years and ordered to pay fines totaling \$401.00 to  
25 the court. On January 9, 2003, as a result of Respondent's  
26 failure to appear and timely pay fines, probation was revoked and  
27 a bench warrant was issued. On May 20, 2003, Respondent appeared

1 in court, paid his outstanding balance, the warrant for his  
2 arrest was recalled, and his probation was reinstated on the same  
3 terms and conditions.

4 5.

5 Respondent's conviction, as set forth in Paragraph 3  
6 above, constitutes grounds for the revocation or suspension of  
7 Respondent's license and/or license rights pursuant to Business  
8 and Professions Code Section 490.

9 WHEREFORE, the Complainant prays that a hearing be  
10 conducted on the allegations of this Accusation and that upon  
11 proof thereof, a decision be rendered imposing disciplinary  
12 action against all licenses and/or license rights of Respondent  
13 ALBERT ARANA under the Real Estate Law and for such other and  
14 further relief as may be proper under applicable provisions of  
15 law.

16 Dated at Los Angeles, California  
17 this 24<sup>th</sup> day of January, 2005.

18  
19   
20 Deputy Real Estate Commissioner  
21  
22  
23  
24

25 cc: Albert Arana  
26 Allied Development Corp.  
27 Sacto.  
Maria Suarez  
RGD