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**FILED**  
AUG - 8 2005  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By *Jana B. Iron*

\* \* \* \* \*

In the Matter of the Application of )  
PATRICK PRAKASH RANIGA, )  
Respondent. )

No. H-31766 LA  
L-2005040406

DECISION

The Proposed Decision dated July 13, 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 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 AUG 9 2005.

IT IS SO ORDERED 8-1-05

JEFF DAVI  
Real Estate Commissioner

*Jeff Davi*

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

In the Matter of the Statement of Issues Against:

PATRICK PRAKASH RANIGA,  
aka PATRICK RANIGA, JR.,  
aka PRAKASH RANIGA,  
aka PATRICK RANIEA,  
aka PARALKSH CHAMPM,  
aka PARALKSH SHANTILAL,

Respondent.

Case No. H-31766 LA

OAH No. L2005040406

**PROPOSED DECISION**

Robert S. Eisman, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California, on June 22, 2005.

Kelvin K. Lee, Staff Counsel, represented Deputy Real Estate Commissioner Maria Suarez (complainant).

Thomas C. Edwards, attorney at law, represented Patrick Prakash Raniga, also known as Patrick Raniga, Jr., Prakash Raniga, Patrick Raniea, Paralksh Champm, and Paralksh Shantilal (respondent). Respondent was also present at the hearing.

Sworn testimony and documentary evidence was received, the record was closed, and the matter submitted on June 22, 2005.

The issue addressed in this proceeding is whether respondent's application for licensure as a real estate salesperson should be denied based on his convictions for grand theft, issuing checks with non-sufficient funds, and alcohol-related reckless driving.

The Administrative Law Judge makes the following factual findings, legal conclusions and order:

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## FACTUAL FINDINGS

1. The Administrative Law Judge takes official notice that complainant Maria Suarez filed the Statement of Issues while acting in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate, State of California. (Complainant exhibit 1.)

2. On May 6, 2004, respondent filed an application with the Department of Real Estate for licensure as a salesperson. Any license issued as a result of such application would be subject to the conditions of Business and Professions Code section 10153.4. (Complainant exhibit 2.)

3. On September 18, 2002, in the Superior Court of California, County of Orange, in Case No. 02NM05035 M A, *People v. Patrick Raniga*, pursuant to a plea agreement and Vehicle Code section 23103.5, the court convicted respondent on a plea of guilty of violating Vehicle Code section 23103, recklessly driving a vehicle with a willful or wanton disregard for the safety of persons or property, in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152 (driving under the influence of alcohol, with a blood alcohol content of .08%, by weight or more), a misdemeanor offense.

The court suspended imposition of sentence and placed respondent on informal probation for 18 months under terms and conditions including that he obey all laws, orders of the court and probation; not drive with a measurable amount of alcohol in his blood system; use his true name and date of birth at all times; pay fees and fines; and enroll in a three-month first offender alcohol abuse program. (Complainant exhibit 5.)

The circumstances surrounding respondent's arrest and conviction are that on April 4, 2002, respondent drove through a stop sign at a high rate of speed and nearly collided with a police vehicle. Investigating officers performed a preliminary alcohol screening / standard field sobriety test and determined that respondent's blood alcohol content was approximately .09% by weight. The officers arrested respondent for violation of Vehicle Code section 23152, subdivisions (a) and (b). (Complainant exhibit 6.)

4. On March 26, 2004, in the Superior Court of California, County of Orange, in Case No. 03NF1523 F A, *People v. Patrick Raniga Jr.*, the court convicted respondent on pleas of guilty of violating Penal Code section 487, subdivision (a), grand theft (seven counts) and Penal Code section 476, subdivision (a), issuing a check with non-sufficient funds (seven counts), all felony offenses. In addition, respondent admitted to crime enhancements pursuant to Penal Code section 12022.6, subdivision (a)(4), taking property valued in excess of \$2,500,000.00 during the commission of an offense (one count), and Penal Code section 186.11, subdivisions (a)(1) and (a)(3), engaging in fraudulent felony conduct involving taking more than \$100,000.00 (one count).

The court suspended imposition of sentence and placed respondent on five (5) years probation under terms and conditions including that he serve 365 days in the county jail (respondent elected an option for home confinement / electronic monitoring), pay restitution in the amount of \$118,824.86, not possess or use checks or credit cards, cooperate with his probation officer, and obey all laws, orders of the court, and probation. (Complainant exhibit 4.)

The circumstances surrounding respondent's arrest and conviction are that respondent had owned a restaurant at a site that was bought out by a drugstore chain. Respondent intended to use his proceeds from the sale, as well as \$60,000 he had received in the form of a loan repayment from a friend, to relocate and remodel the restaurant. Due to the deposit of a "bad" check from respondent's friend and a bank merger that mixed up respondent's accounts, respondent wrote checks against his accounts, which had insufficient funds. Respondent stated that he had no reason to believe that his friend's latest loan repayment of \$60,000 would not be honored. Respondent claims that he was not notified regarding the \$60,000 check until three weeks after he had made the deposit and written several checks against those funds.

Respondent stated that during the criminal proceeding he was in the midst of financial difficulties and could not afford a lawyer to defend against the charges; he had no choice but to accept the plea agreement offered by the district attorney, even though he knew that he would be admitting to willful conduct classified as felony offenses.

At about the time of his sentencing, respondent repaid all moneys owed to financial institutions as a result of the bad checks he issued. On June 1, 2005, respondent completed his electronic monitoring program. (Respondent exhibit A.) Respondent's period of probation, which is currently supervised, is not scheduled to end until March 2009.

4. Respondent is now 46 years old, married, with two sons, ages 10 and 14. Respondent has been interested in becoming a real estate salesperson for a long time and owns acreage in several areas. (Complainant exhibit 7.)

As a restaurateur, respondent was very active in his local Chamber of Commerce, where he received special recognition. Respondent also sponsored golf tournaments to raise money for handicapped children. He no longer consumes alcoholic beverages.

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5. Several witnesses testified on behalf of respondent.

a. Armando Espinoza, respondent's current probation case officer, has known respondent for approximately six months. Mr. Espinoza testified that respondent is a model probationer, in that respondent successfully completed his period of electronic confinement monitoring; reports regularly, as required; complies with all the terms and conditions of probation; and is cooperative, prompt, punctual and professional in dealing with his probation officer.

Mr. Espinoza opined that respondent is a candidate for probation field monitoring (i.e., respondent would no longer have to physically report to his probation officer) and early termination of probation.

b. Kathleen Sestini has know respondent for approximately 21 years. She worked in respondent's restaurant, first as a waitress, and later as a manager. Ms. Sestini stated that respondent was dependable as an employer, well-liked by his employees, and that he paid all his restaurant-related debts, as necessary.

c. Gloria Dominguez is a medical office administrator who has known respondent for approximately 20 years. Ms. Dominguez described respondent as a calm person with a positive attitude.

d. Rose Marsh is a real estate broker that is supporting respondent's application for licensure as a salesperson. Respondent currently works in Ms. Marsh's office as her assistant.

Ms. Marsh has known respondent about 10 years and previously loaned him \$10,000 so that he could purchase his first home. Respondent repaid the debt. Ms. Marsh is close with respondent's family and is willing to hire him as a salesperson, even if he is only issued a "restricted" salesperson license. She described respondent as stable and cooperative, with a great family.

6. Respondent submitted copies of several documents that he received from various entities in recognition of his exceptional community and social responsibility. (Respondent exhibit B.)

### LEGAL CONCLUSIONS

1. The standard of proof in this proceeding is "preponderance of the evidence," meaning that respondent is obliged to adduce evidence that has more convincing force than that opposed to it. The administrative law judge applied this standard of proof because respondent is applying for a license in which he currently holds no vested interest. (*San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1893.)

2. Business and Professions Code section 475, subdivision (a), and section 480, subdivision (a), provide, in pertinent part, that a license application may be denied on the grounds of conviction of a crime. Business and Professions Code section 480, subdivision (a), adds that the Department of Real Estate "may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made."

3. 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. Subdivision (a) states, in pertinent part:

"When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, . . . the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

"(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person. [¶] . . . [¶]

"(8) 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."

4. Respondent's 2004 conviction for grand theft and issuing checks with insufficient funds is substantially related to the qualifications, functions or duties of a real estate licensee, pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1) and (a)(8). (Factual Finding 4; Legal Conclusion 3.)

5. In 2002, the court convicted respondent of alcohol-related reckless driving. By means of respondent's intoxicated state while driving a motor vehicle, respondent demonstrated a wanton disregard for the safety of others, as evidenced by his failure to obey a traffic control device and that he almost hit another vehicle while driving with a blood alcohol content above the legal limit. (See *People v. Eribarne*, 124 Cal.App.4th 1463, 1468.)

6. Respondent's 2002 conviction for alcohol-related reckless driving 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 Finding 3; Legal Conclusions 3 and 5.)

7. Complainant has established by a preponderance of the evidence that grounds exist to deny respondent's application for licensure as a real estate salesperson pursuant to Business and Professions Code section 480, subdivision (a). (Factual Findings 3 and 4; Legal Conclusions 2 through 6.)

8. Business and Professions Code section 10177, subdivision (b), provides that the Real Estate Commissioner may deny the issuance of a license to an applicant, who has "entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude . . . irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information."

9. The crimes of grand theft and issuing checks with insufficient funds are classified as felony offenses and involve moral turpitude, in that the offenses required "willful" acts. "It is also settled that the related group of offenses involving intentional dishonesty for purposes of personal gain are crimes involving moral turpitude. [Citation.]" (*In re Hallinan* (1954) 43 Cal.2d 243, 247-248.)

10. Complainant established by a preponderance of the evidence that grounds exist to deny respondent's application for licensure as a real estate salesperson pursuant to Business and Professions Code section 10177, subdivision (b). (Factual Finding 4; Legal Conclusions 3, 4, 8 and 9.)

11. Respondent's testimony regarding his having to accept a plea agreement is not compelling. An applicant for an occupational or professional license may not require an agency to reexamine independently the facts that underlie a guilty plea and may not relitigate the issue of guilt previously resolved in a criminal court. An administrative agency is entitled to rely on the applicant's plea to establish that a criminal conviction involved moral turpitude. (See *Arneson v. Fox* (1980) 28 Cal.3d 440.)

"[A]n examination of the express language of [Business and Professions Code] section 10177.5 [ ] makes the judgment itself the operative fact upon which disciplinary action is imposed; irrelevant, therefore are the acts or omissions of the licensee which led to the judgment." (*Richards v. Gordon* (1967) 254 Cal.App.2d 735, 741.)

12. 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
- Restitution to any person who has suffered monetary losses
- Expungement of criminal convictions
- Successful completion or early discharge from probation or parole
- Abstinance 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
  - Discharge or bona fide efforts toward discharging debts or obligations
  - Correction of business practices that may result in injury to others
  - Involvement in community, church or privately-sponsored programs
  - New and different social and business relationships
- Change in attitude, as evidenced by applicant / respondent and other persons knowledgeable and competent to testify and absence of subsequent convictions

13. It has not been less than two years since respondent's 2004 conviction. Respondent is still on probation, which is not scheduled to end until March 2009. Although he may be a future candidate for early termination of probation or expungement of his convictions, neither of these rehabilitation factors have been satisfied.

In most other respects, respondent is demonstrating rehabilitation. He now abstains from consuming alcoholic beverages, has an excellent family life, has satisfied all debts related to his convictions, and is no longer in the restaurant business. Witnesses testified favorably regarding respondent's character and evidence supports his community and social involvement.

14. In *In re Gossage* (2000) 23 Cal.4th 1080, 1099, the court held that "[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that a [license] applicant did not commit additional crimes or continue [improper] behavior . . . while on probation or parole." While the criminal history of the license applicant in *Gossage* exceeds respondent's criminal record, the basic premise is still valid. That is, a substantial period of exemplary conduct is required, following an applicant's misdeeds and during probation, and little weight should be given for evidence of rehabilitation based on conduct during the probationary period. The more serious the crime, the stronger the applicant's rehabilitation must be.

15. 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>1</sup> The purpose of proceedings of this type is not to punish respondent. In particular, the statutes relating to real estate licenses are designed to protect the public from any potential risk of harm.<sup>2</sup> The law looks with favor upon those who have been properly reformed.<sup>3</sup> To that end, respondent bears a burden to establish

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<sup>1</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>2</sup> *Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.

<sup>3</sup> *Resner v. State Bar* (1967) 67 Cal.2d 799, 811.



his reformation against a history of multiple convictions within the past few years; convictions that are substantially related to the qualifications, functions, or duties of a real estate salesperson.

16. In light of the foregoing factual findings and legal conclusions, respondent has not met his burden of establishing by a preponderance of the evidence that the Commissioner of Real Estate should authorize and issue him a license as a real estate salesperson. (See *Martin v. Alcoholic Bev. App. Bd.* (1950) 52 Cal.2d 259, 264-265.)

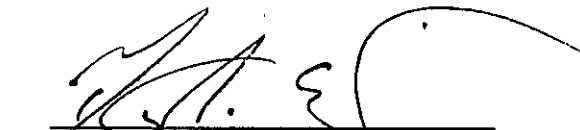
17. However, respondent is encouraged to continue in his efforts toward rehabilitation and, subject to the provisions of California Code or Regulations, title 10, section 2911, should consider reapplying for licensure at a future time, when evidence of any sustained positive efforts at rehabilitation may further demonstrate to the Real Estate Commissioner that the public would be well-protected if he was issued a restricted or unrestricted license as a salesperson.

**ORDER**

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of respondent Patrick Prakash Raniga for licensure as a real estate salesperson is denied.

July 13, 2005.

  
ROBERT S. EISMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 KELVIN K. LEE, Counsel (SBN 152867)  
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4 Los Angeles, California 90013-1105

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6 (Direct) (213) 576-6905

**FILED**  
MAR 15 2005  
DEPARTMENT OF REAL ESTATE

By 

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Application of ) No. H-31766 LA  
12 PATRICK PRAKASH RANIGA, ) STATEMENT OF ISSUES  
13 Respondent. )  
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15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Statement  
17 of Issues against PATRICK PRAKASH RANIGA ("Respondent"), is  
18 informed and alleges in her official capacity as follows:

19 I

20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about May 6, 2004, with the knowledge and  
23 understanding that any license issued as a result of said  
24 application would be subject to the conditions of Business and  
25 Professions Code ("Code") Section 10153.4.

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CRIMINAL CONVICTIONS

II

On or about March 26, 2004, in the Superior Court of California, County of Orange, in Case No. 03NF1523, Respondent was convicted of violating seven counts of the California Penal Code Section 487(a) (Grand Theft) and seven counts of 476(a) (Non-Sufficient Fund Checks), Felonies.

III

On or about September 18, 2002, in the Superior Court of California, County of Orange, in Case No. 02NM05035, Respondent was convicted of violating the California Vehicle Code Section 23103 (Reckless Driving: Alcohol Related), a misdemeanor.

IV

The crimes for which Respondent was convicted, as described in Paragraphs II and III, above, involve moral turpitude and bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

V

The crimes for which Respondent was convicted, as described in Paragraphs II and III, above, constitute cause for the denial of Respondent's application for a real estate license under Code Sections 475(a), 480(a) and/or 10177(b).

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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, PATRICK PRAKASH RANIGA, 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 9<sup>th</sup> day of March 2005.

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15 Maria Suarez  
16 Deputy Real Estate Commissioner

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24 cc: Patrick Prakash Raniga  
25 Rose Duke Marsh  
26 Maria Suarez  
27 Sacto.  
MJ