

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-31994 LA
)
 TONY KALOUTIAN,)
)
 Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On November 3, 2005, a Decision was rendered herein, denying 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 December 21, 2005. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On September 21, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

1 I have considered Respondent's petition and the
2 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 if
11 Respondent satisfies the following conditions within nine (9)
12 months from the date of this Order:

13 (1) Submittal of a completed application and payment
14 of the fee for a real estate salesperson license.

15 (2) Submittal of evidence of having since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate
19 Law for renewal of a real estate license.

20 This Order shall be effective immediately.

21 Dated: 7/3/08

22
23 JEFF DAVI
24 Real Estate Commissioner
25
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FILED
NOV 09 2005
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By [Signature]

* * * * *

In the Matter of the Application of) No. H-31994 LA
)
) L-2005060730
)
TONY KALOUTIAN,)
)
)
Respondent.)
_____)

DECISION

The Proposed Decision dated October 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, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on November 29, 2005.

IT IS SO ORDERED

JEFF DAVIS
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

TONY KALOUTIAN,

Respondent.

Case No. H-31994 LA
OAH No. L2005060730

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on September 20, 2005.

James Peel, Staff Counsel, represented the complainant.

Respondent appeared in person and was represented by Naser J. Khoury, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FINDINGS OF FACT

1. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Statement of Issues in her official capacity.
2. Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on December 28, 2004.
3. On May 23, 2000, at approximately 8:00 p.m. Respondent, while driving his vehicle in a residential neighborhood, engaged in a road race with a person in another vehicle. He and the other driver were stopped by a City of Glendale police officer after racing a short distance. Respondent was given a City of Glendale Notice to Appear. Thereafter, Respondent was subjected to criminal proceedings and retained an attorney. Subsequently, on June 23, 2000, in the Superior Court of California, Glendale Courthouse

Division, County of Los Angeles, in case No. 0GL02226, Respondent was convicted of violating Vehicle Code section 23109(a) (Speed Contests/Engage In), a misdemeanor.

4. As a result of the conviction Respondent was placed on a two-year summary probation and ordered to pay fines and fees in the amount of \$1,102. Respondent did pay the fines and fees and did fulfill all other conditions of probation. Thereafter, Respondent petitioned for expungement of the conviction. The petition was granted pursuant to Penal Code section 1203.4 and the conviction was expunged.

5. In response to Question 25 of his license application, to wit: "Have you ever been convicted of any violation of law? Conviction expunged under Penal Code Section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense". Respondent answered "No", and failed to reveal the conviction described in Finding 3.

The Notice to Appear clearly states at the top of the document "misdemeanor" and "booking required". A Misdemeanor Complainant was filed against Respondent on June 13, 2000. The caption states in large, bold letters, "Misdemeanor Complaint" and the word "Misdemeanor" is used in the body of the complaint. The criminal proceedings, in the Superior Court, commenced with the filing of the complaint on June 13, 2000. Respondent was then present in court and advised, inter alia, of the nature of charges against him and the elements of the offense. Accordingly, Respondent knew or should have known that he was convicted of a misdemeanor.

6. Respondent was 20 years old at the time of engaging in the speed contest. He is now 25 and, as part of the maturation process, he is self-sufficient. He has three brothers and a sister and has a close familial relationship with his siblings and other members of his family. At the time of the incident he was cooperative with the police. He has suffered no other conviction and he is now a socially responsible person.

7. Respondent is employed as a computer consultant. Previously, he worked for the Computer Factory. While so employed he was dependable and conscientious and worked with honesty and integrity. Respondent is now attending Glendale Community College, full time, and is pursuing a degree in Computer science and is industrious in his school work. He is a professionally responsible person.

8. The qualifications of a licensee of the Department include the character traits of fidelity and trustworthiness. Clients rely on these traits when dealing with the licensee. Respondent's conduct set forth in Finding 5 constitutes a misrepresentation in an application to the Department. A licensee is expected to read carefully and answer truthfully all written questions that might arise during the licensee's performance of duty to clients. Respondent, despite the clear and direct language on the application, mislead the Department in the application process.

9. Weighed against the misrepresentation is Respondent's otherwise good character as is reflected in Findings 6 and 7. That good character is sufficient to allow Respondent an opportunity to work with a restricted license. Under a restricted license Respondent will be supervised by a Real Estate Broker to the end that Respondent performs with fidelity and trustworthiness.

LEGAL CONCLUSIONS

1. The Statement of Issues was brought under the provisions of section 10100, Division 4 of the Business and Professions Code of the State of California and sections 11500 and 11529 of the Government Code.

2. Respondent's failure to reveal the conviction set forth in Finding 3, in his license application, is grounds for denial of the issuance of a license under Business and Professions Code section 480, subdivision (c). However, by reason of Finding 9 a properly conditioned restricted license is consistent with the public interest.

ORDER

Respondent's application for a real estate salesperson license is denied; provided,
however, a restricted real estate salesperson license shall be issued to Respondent pursuant to
section 10153.5 of the Business and Professions Code. The restricted license issued to the
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 said Code:

1. The license shall not confer any property right in the privileges to be
exercised, and the Real Estate Commissioner may by appropriate order suspend the right to
exercise any privileges granted under this restricted license in the event of:

- (a) The conviction of Respondent (including a plea of nolo contendere)
of a crime which is substantially related to Respondent's fitness or
capacity as a real estate licensee; or
- (b) The receipt of evidence 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 this restricted
license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted
real estate license nor the removal of any of the conditions, limitations or restrictions
attaching to the restricted license until two years have elapsed from the date of issuance of
the restricted license to Respondent.

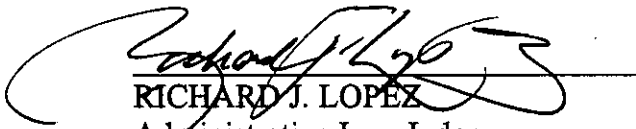
3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

- (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 months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in section 101543.2, 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 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: October 13, 2005


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

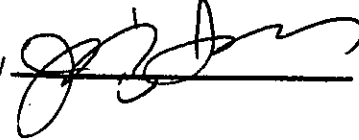
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FILED
JUN 09 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) NO. H- 31994 LA
12 TONY KALOUTIAN,)
13) STATEMENT OF ISSUES
14 Respondent.)

15
16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Statement
18 of Issues against TONY KALOUTIAN, aka Tony P. Kaloutian,
19 ("Respondent"), is informed and alleges as follows:

20 1.

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

24 2.

25 Respondent made application to the Department of Real
26 Estate of the State of California for a real estate salesperson
27 license on or about December 28, 2004.

3.

(CRIMINAL CONVICTION)

On or about June 23, 2000, in the Superior Court of California, Glendale Courthouse Division, County of Los Angeles, in case No. 0GL02226, Respondent was convicted of violating California Vehicle Code Section 23109(a) (Speed Contests/Engage In), a misdemeanor.

4.

(FAILURE TO REVEAL CONVICTION)

In response to Question 25 of his license application, to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTION EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent answered "No", and failed to reveal the conviction described in Paragraph 3 above.

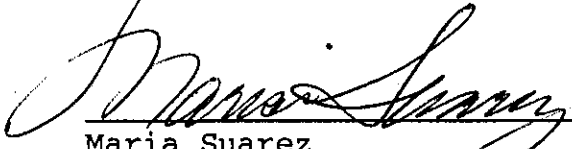
Respondent's failure to reveal the conviction set forth herein in Paragraph 3, above, in his license application, constitutes, knowingly making a false statement of material fact required to be revealed in said application, which is grounds for denial of the issuance of a license under Business and Professions Code Sections 480(c).

The Statement of Issues is brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 and 11529 of the Government Code.

1 WHEREFORE, Complainant prays that the above entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, TONY KALOUTIAN, and for such other and
6 further relief as may be proper under other provisions of law.

7 Dated at Los Angeles, California

8 this 1 day of June 2005.

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10 
11 Maria Suarez
12 Deputy Real Estate Commissioner

13 Cc: TONY KALOUTIAN
14 E A M Enterprises Inc.
15 Maria Suarez
16 Sacto.
17 LF
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