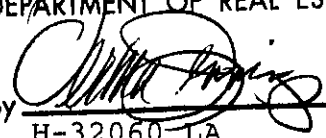


DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
FEB - 7 2006  
DEPARTMENT OF REAL ESTATE.

\* \* \* \* \*

In the Matter of the Application of )  
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)  
YILUARDE PACHECO, )  
)  
)  
Respondent. )  
\_\_\_\_\_ )

By   
No. H-32060-LA  
L-2005080876

DECISION

The Proposed Decision dated October 31, 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 with the following exception:

Condition 4 and 5 of the Order of the Proposed Decision is not adopted and shall not be a part of the Decision.

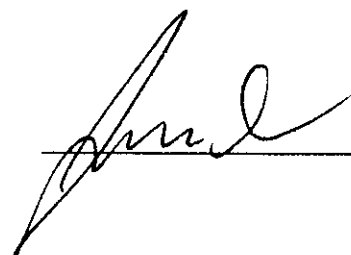
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 February 27, 2006.

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

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

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

**In the Matter of the Application of:**

**YILUARDE PACHECO,**

**Respondent.**

**File No. H-32060 LA**

**OAH No. L-2005080876**

**PROPOSED DECISION**

This matter was heard by Christine C. McCall, Administrative Law Judge with the Office of Administrative Hearings, on September 29, 2005, in Los Angeles, California. Complainant was represented by James Peel, Staff Counsel for the Department of Real Estate. Respondent Yiluarde Pacheco appeared and represented himself.

Oral and documentary evidence was received, the record was closed and the matter was submitted for decision on September 29, 2005.

**FACTUAL FINDINGS**

1. On June 1, 2005, Complainant Maria Suarez filed the Statement of Issues while acting in her official capacity as Deputy Real Estate Commissioner of the Department of Real Estate (Department), State of California.

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

3a. On September 23, 1996, in the United States District Court for the Central District of California, Case Number 95-00998 (A) - HLH entitled *United States of America v. Carlos Ruben Hinojosa-Gonzales, et.al.*, Respondent was convicted, on his plea of guilty, of one count in violation of 21 U.S.C. section 846 (conspiracy to possess with intent to distribute cocaine) and two counts in violation of 21 U.S.C. section 841, subdivision (a) (1) (possession with intent to distribute cocaine), federal offenses involving moral turpitude and crimes substantially related to the qualifications, functions and duties of a real estate licensee.

3b. Respondent was sentenced to eighty-seven (87) months in federal prison on each count, such terms to run concurrently, and placed on supervised release for a period of

five years. Respondent was ordered to participate in substance abuse treatment and to pay a fine of one hundred and fifty dollars (\$150).

3c. Respondent served most of his term in prison and paid in full all Court-ordered monetary fines and penalties. He was released from prison in 2000. On April 6, 2004, the federal court ordered early termination of Respondent's five-year probation.

4. The facts and circumstances surrounding Respondent's conviction are these:

4a. In 1995, while on active duty with the U.S. Marine Corps, Respondent, age 23, was drawn into a social relationship with several civilians who had means for extravagant and expensive leisure activities. In time, Respondent became apprehensive about the business dealings and other activities of these acquaintances and about his ability to safely extricate himself from their ambit. In October, 1995, upon the request of these individuals, Respondent secured an apartment and drove a vehicle from one point to another. He did not inquire into the objective of his services, but he was aware that he was participating in illegal activity. Respondent deliberately avoided actual knowledge of the contents of the vehicle or the purpose of his services because he did not want his suspicions explicitly confirmed.

4b. At the time of his offense, Respondent was using alcohol excessively and was under significant stress about family problems.

5. Respondent was in federal custody from the time of his arrest in 1995 until 2000. During that time, he successfully completed a number of educational programs including classes in anger management, creative writing, real estate investment, salesmanship, automotive sales, intermediate stocks and multiple extended courses in overcoming drug and alcohol abuse.

6. Since the time of his arrest in October of 1995, Respondent has not associated with persons who were involved in or related to the acts for which he was convicted.

7. In May of 2000, Respondent was awarded a Bachelor of Arts from Western Illinois University.

8. In 2001, with the permission of the U.S. Probation Office, Respondent established a limousine rental business. Respondent's business operates pursuant to a permit issued by the California Public Utilities Commission. Respondent has been successful in this business. Respondent's business presently requires 12-hour work days.

9. Respondent has a close relationship with his five nephews and niece. He takes an active role in their upbringing, and offers guidance and advice based on the consequences of his crimes.

10. Respondent has not used illegal drugs at any time since his arrest in 1995. Respondent does not use alcohol to excess.

11. Respondent expressed deep remorse and shame for his crimes. He cited the personal loss of five years of his young adulthood, and he movingly described his profound regret for having disappointed, embarrassed and betrayed his parents, family and friends. Respondent stated that he experienced profound changes in his character as a consequence of his conviction. He believes that he paid a heavy price for his crimes, but he also believes that, from his experience, he has gained determination, strength and the ability to hold himself to a high moral standard in the future. Respondent cited his record while in prison and his wholehearted efforts since his release from prison as evidence of his intention, unwavering since his arrest ten years ago, to conduct himself in a manner that brings pride to his family and to himself.

### **LEGAL CONCLUSIONS**

1. Cause exists to deny Respondent's application for a real estate salesperson license, pursuant to Business and Professions Code sections 475, subdivision (a) (2), and 480, subdivision (a) (1), and California Code of Regulations, title 10, section 2910, subdivision (a) (8), for his criminal convictions which are substantially related to the duties, qualifications and functions of a real estate licensee, as set forth in Factual Finding 3.

2. Cause exists to deny Respondent's application for a real estate salesperson license, pursuant to Business and Professions Code section 10177, subdivision (b), for his criminal convictions, crimes of moral turpitude, as set forth in Factual Finding 3.

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

- (1) More than two years have lapsed since Respondent's conviction.  
(Subdivision (a).);
- (2) Respondent successfully completed probation and was released early from his probation.  
(Subdivision (e).);
- (3) Respondent paid all fines and monetary penalties imposed in connection with his criminal conviction.  
(Subdivision (g).);
- (4) Respondent has a stable family life and is fulfilling family responsibilities, as set forth in Factual Finding 9.  
(Subdivision (h).);
- (5) Respondent has completed a number of educational courses for economic self-improvement, as set forth in Factual Findings 5 and 7.  
(Subdivision (i).);

(6) Respondent has terminated the social relationships which were related to his criminal offenses, and has established new and different social and business relationships, as set forth in Factual Findings 6 and 8.

(Subdivision (m).); and

(7) Respondent has demonstrated a change in attitude from that which existed at the time of his crimes, as set forth in Factual Finding 11.

(Subdivision (n).)

4. Notwithstanding Legal Conclusions 1 and 2 above, Respondent has demonstrated sufficient rehabilitation following his conviction such that the public would be adequately protected by the issuance of a restricted real estate salesperson license to the Respondent.

### 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 10156.5 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 that 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 (2) 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 (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, a course in real estate practices and one of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

DATED: October 31, 2005

  
CHRISTINE C. MCCALL  
Administrative Law Judge  
Office of Administrative Hearings



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II

On or about September 23, 1996 in the United States District Court for the Central District of California, Respondent was convicted of violating 21 USC 846 (conspiracy to possess with intent to distribute) and 21 USC 841(a)(1) (possess with intent to distribute cocaine).

III

The matter described above in Paragraph II involves moral turpitude and is substantially related to the functions, duties, and responsibilities of a real estate licensee.

IV

The matter described in Paragraph II constitutes cause for denial of Respondent's application for a real estate salesperson license under Section 480(a) and 10177(b) of the California Business and Professions Code.

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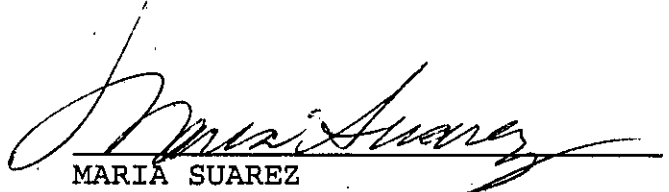


1 The Statement of Issues is brought under the provisions  
2 of Section 10100, Division 4 of the Business and Professions Code  
3 of the State of California and Sections 11500 through 11528 of  
4 the Government Code.

5 WHEREFORE, the Complainant prays that the above-  
6 entitled 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 YILUARDE PACHECO and for such other and  
10 further relief as may be proper in the premises.

11 Dated at Los Angeles, California,

12 this 1 day of June, 2005.

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16 MARIA SUAREZ  
17 Deputy Real Estate Commissioner

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24 cc: Yiluardo Pacheco  
25 Jason Madiedo  
26 Maria Suarez  
27 Sacto.  
GD