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AUG - 6 2009

DEPARTMENT OF REAL ESTATE
BY James B. Chen

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-34080 LA
)
)
WILSON OBED QUISPE,)
)
Respondent)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Wilson Obed Quispe
16145 Reiner Circle
Riverside, CA 92504

On August 5, 2008, 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 Order of July 14, 2008, in Case No. H-34080 LA. This Order, which became effective on August 4, 2008, 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 and Professions Code and to enumerated additional terms,

1 conditions and restrictions imposed under authority of Section
2 10156.6 of said Code. Among those terms, conditions and
3 restrictions, was the requirement that:

4 "Respondent shall, with nine (9) months from the
5 effective date of this Decision, present evidence
6 satisfactory to the Commissioner that Respondent
7 has, since the most recent issuance of an original
8 or renewal real estate salesperson license, taken
9 and successfully completed the continuing
10 education requirements of Article 2.5 of Chapter 3
11 of the Real Estate Law for renewal of a real
12 estate salesperson license. If Respondent fails
13 to satisfy this condition, the Commissioner may
14 order the suspension of the restricted license
15 until Respondent presents such evidence. The
16 Commissioner shall afford Respondent the
17 opportunity for a hearing pursuant to the
18 Administrative Procedure Act to present such
19 evidence."

20 The Commissioner has determined that as of
21 May 4, 2009, Respondent has failed to satisfy this condition,
22 and as such, is in violation of Section 10177(k) of the
23 Business and Professions Code. (Respondent has no right to
24 renew the restricted license if this condition isn't satisfied
25 by the date of its expiration. (Section 10156.7 of the
26 Business and Professions Code.)

27 NOW, THEREFORE, IT IS ORDERED under authority of
Section 10156.7 of the Business and Professions Code of the
State of California that the restricted real estate
salesperson license heretofore issued to respondent and the
exercise of any privileges thereunder is hereby suspended
until such time as Respondent provides proof satisfactory to
the Department of compliance with the condition(s) referred to

1 above, or pending final determination made after hearing (see
2 "Hearing Rights" set forth below).

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

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

12 HEARING RIGHTS: Pursuant to the provisions of
13 Section 10156.7 of the Business and Professions Code, you have
14 the right to a hearing to contest the Commissioner's
15 determination that you are in violation of Section 10177(k).
16 If you desire a hearing, you must submit a written request.
17 The request may be in any form, as long as it is in writing
18 and indicates that you want a hearing. Unless a written
19 request for a hearing, signed by or on behalf of you, is
20 delivered or mailed to the Department at 320 West 4th Street,
21 Room 350, Los Angeles, California, 90013, within 20 days after
22 the date that this Order was mailed to or served on you, the
23 Department will not be obligated or required to provide you
24 with a hearing.

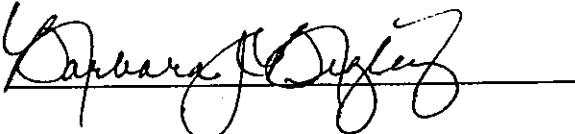
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This Order shall be effective immediately.

DATED: 7-31-09

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

(Handwritten initials)

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone (213) 576-6982

FILED

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DEPARTMENT OF REAL ESTATE
BY: *(Signature)*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-34080 LA
12)	L-2007090374
13	WILSON OBED QUISPE,)	
14	Respondent.)	<u>STIPULATION AND AGREEMENT</u>
15)	<u>AND</u>
16)	<u>DECISION AFTER REJECTION</u>

17 The California Department of Real Estate ("Department")
18 filed an Accusation against WILSON OBED QUISPE ("Respondent") on
19 June 27, 2007. On January 25, 2008, a hearing was held and
20 evidence received, the record was closed, and the matter was
21 submitted.

22 On February 25, 2008, the Proposed Decision of the
23 Administrative Law Judge was issued, and determined, among other
24 things, a restricted real estate salesperson license shall be
25 issued to Respondent, and that said license should be suspended
26 for two-weeks, following its issuance.

1 On April 10, 2008, the Commissioner notified Respondent
2 that the Proposed Decision of the Administrative Law Judge was
3 not adopted as the Decision of the Real Estate Commissioner.

4 The parties wish to settle this matter without further
5 proceedings.

6 IT IS HEREBY STIPULATED by and between Respondent and
7 Respondent's attorney Frank Buda, Esq., and the Complainant,
8 acting by and through Elliott Mac Lennan, Counsel for the
9 Department of Real Estate, as follows for the purpose of settling
10 and disposing of the Accusation filed by Complainant.

11 A. It is understood by the parties that the Real
12 Estate Commissioner may adopt the Stipulation and Agreement and
13 Decision After Rejection (sometimes "Stipulation") as his
14 decision in this matter, thereby imposing the penalty and
15 sanctions on Respondent's real estate license and license rights
16 as set forth in the below "Decision and Order." In the event the
17 Commissioner in his discretion does not adopt the Stipulation and
18 Agreement and Decision After Rejection, the Stipulation shall be
19 void and of no effect; the Commissioner will review the
20 transcript and the evidence in the case, and will issue his
21 Decision after Rejection as his Decision in this matter.

22 B. By reason of the foregoing and solely for the
23 purpose of settlement of the Accusation without further
24 administrative proceedings, it is stipulated and agreed that
25 the Factual Findings and Legal Conclusions, which are set out
26
27

1 in the Proposed Decision, and which were rejected by the
2 Commissioner on April 8, 2008, are hereby adopted and
3 incorporated by reference herein.

4 C. By reason of the foregoing and solely for the
5 purpose of settlement of the Accusation without further
6 administrative proceedings, it is stipulated and agreed the
7 Commissioner shall adopt the following Order:

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 All licenses and licensing rights of Respondent
11 WILSON OBED QUISPE under the Real Estate Law are revoked;
12 provided, however, a restricted salesperson license shall be
13 issued to Respondent pursuant to Section 10156.5 of the
14 Business and Professions Code if Respondent makes application
15 therefor and pays to the Department of Real Estate the
16 appropriate fee for the restricted license within 90 days from
17 the effective date of this Decision. The restricted license
18 issued to Respondent shall be subject to all of the provisions
19 of Section 10156.7 of the Business and Professions Code and to
20 the following limitations, conditions and restrictions imposed
21 under authority of Section 10156.6 of that Code:

22
23 1. The restricted license issued to Respondent
24 pursuant to this Decision shall be suspended for two-weeks from
25 the date of issuance of said license.
26
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1 2. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 3. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

12 4. Respondent shall not be eligible to apply for
13 issuance of an unrestricted real estate license nor for the
14 removal of any of the conditions, limitations or restrictions of
15 a restricted license until three (3) years have elapsed from the
16 effective date of issuance of this Decision.

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

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

25 (b) That the employing broker will exercise close
26 supervision over the performance by the
27

1 restricted licensee relating to activities
2 for which a real estate license is required.

3 6. Respondent shall, within nine (9) months from the
4 effective date of this Decision, present evidence satisfactory
5 to the Real Estate Commissioner that Respondent has, since the
6 most recent issuance of an original or renewal real estate
7 license, taken and successfully completed the continuing
8 education requirements of Article 2.5 of Chapter 3 of the Real
9 Estate Law for renewal of a real estate license. If Respondent
10 fails to satisfy this condition, the Commissioner may order the
11 suspension of the restricted license until the Respondent
12 presents such evidence. The Commissioner shall afford
13 Respondent the opportunity for a hearing pursuant to the
14 Administrative Procedure Act to present such evidence.
15

16
17 6-25-08
18 DATED

17 ELI
18 ELLIOTT MAC LENNAN, Counsel
19 DEPARTMENT OF REAL ESTATE

19 * * *

20 I have read the Stipulation and Agreement and
21 Decision after Rejection and discussed it with my counsel. Its
22 terms are understood by me and are agreeable and acceptable to
23 me. I understand that I am waiving rights given to me by the
24 California Administrative Procedure Act (including but not
25 limited to Sections 11506, 11508, 11509, and 11513 of the
26 Government Code), and I willingly, intelligently, and
27

1 voluntarily waive those rights, including the right of
 2 requiring the Commissioner to prove the allegations in the
 3 Accusation at a hearing at which I would have the right to
 4 cross-examine witnesses against me and to present evidence in
 5 defense and mitigation of the charges.

6
 7 DATED: 6/25/08

Wilson Obed Quispe
 WILSON OBED QUISPE, Respondent

9 I have reviewed the Stipulation and Agreement and Decision
 10 After Rejection as to form and content and have advised my
 11 client accordingly.

12
 13 DATED: 6-26-08

Frank Buda
 FRANK BUDA, ESQ.,
 Attorney for Respondent

14
 15 * * *

16
 17 The foregoing stipulation and agreement and Decision
 18 After Rejection is hereby adopted as my Decision in this matter
 19 and shall become effective at 12 o'clock noon on 8/4/2008.

20
 21 IT IS SO ORDERED on _____, 2008.

22 JEFF DAVI
 Real Estate Commissioner

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 24 _____

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FAX NO.

JUN-25-08 WED 04:10 PM

1 voluntarily waive those rights, including the right of
 2 requiring the Commissioner to prove the allegations in the
 3 Accusation at a hearing at which I would have the right to
 4 cross-examine witnesses against me and to present evidence in
 5 defense and mitigation of the charges.

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 8 DATED: _____
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WILSON OBED QUISPE, Respondent

I have reviewed the Stipulation and Agreement and Decision After Rejection as to form and content and have advised my client accordingly.

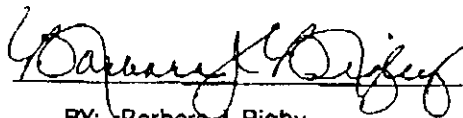
DATED: _____
 FRANK BUDA, ESQ.,
 Attorney for Respondent

* * *

The foregoing Stipulation and Agreement and Decision After Rejection is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on 8/4/2008.

IT IS SO ORDERED on 7-14-08, 2008.

JEFF DAVI
 Real Estate Commissioner



BY: Barbara J. Bigby
 Chief Deputy Commissioner

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APR 10 2008

DEPARTMENT OF REAL ESTATE
BY: Agui

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-34080 LA
)	
WILSON OBED QUISPE,)	L-2007090374
)	
Respondent.)	

NOTICE

TO: WILSON OBED QUISPE, Respondent, and FRANK M. BUDA, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 25, 2008, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 25, 2008, 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 January 25,

///

1 2008, any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of January 25, 2008, at the Los Angeles office
6 of the Department of Real Estate unless an extension of the time
7 is granted for good cause shown.

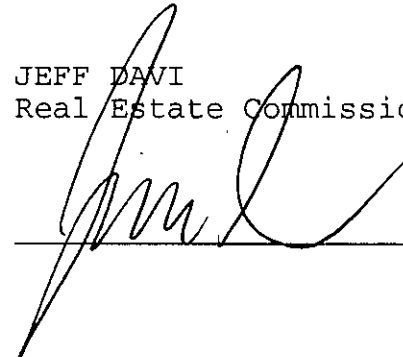
8 Written argument of Complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 Respondent at the Los Angeles office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: _____

4.8.08

14
15 JEFF DAVI
16 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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MAR 28 2008

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

In the Matter of the Accusation Against:

Case No. H34080-CA

WILSON OBED QUISPE,

OAH No. 2007090374

Respondent.

PROPOSED DECISION

The hearing in the above-captioned matter was held at Los Angeles, California, on January 25, 2008. Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, presided. Complainant was represented by Elliot Mac Lennan, Staff Counsel, Department of Real Estate. Respondent appeared with his attorney, Frank M. Buda.

Evidence was received, the case argued, and the matter submitted for decision on the hearing date. The Administrative Law Judge hereby makes his findings of fact, conclusions of law, and orders, as follows:

FINDINGS OF FACT

1. Complainant Joseph Aiu filed the Accusation in the above-captioned proceeding while acting in his official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate (Department), State of California.
2. Respondent Wilson Obed Quispe is currently licensed by the Department as a real estate salesperson, holding license number 01242473. Respondent's license will expire in November 2010, unless renewed. Respondent was first licensed by the Department in October 1998.
3. Respondent was convicted of a misdemeanor crime on July 6, 2006. The conviction was entered against him in the Superior Court of California, County of Riverside, in case number RIM 466177. Respondent was convicted of one count of violating Penal Code section 475, subdivision (c), possession of a completed money order or check with the intent to defraud. The conviction was based on Respondent's plea of guilty.
4. The court suspended the imposition of sentence and placed Respondent on informal probation for a period of one month, on the following conditions: Respondent was to serve one day in the county jail for which he was credited with one day served at the time of his conviction, and he was ordered to pay fines and fees in the sum of \$230.

5. Respondent's conviction was for a crime of moral turpitude, substantially related to the duties, qualifications, and functions of a real estate licensee.

6. The facts and circumstances of the crime are rooted in one of the Respondent's real estate transactions. In 2003 and 2004, Respondent represented Maria Flores in a real estate transaction where she bought a house; the escrow of her purchase closed on February 17, 2004. According to Respondent, she did not have enough money to close the deal, and he lent her the money, because he perceived that the escrow fees in the case had been overestimated, and that he would therefore be repaid at the close of escrow. He had her agreement that he could deposit the refund check, for just over \$1,000, into his account. However, Respondent had no written documentation that he could do so. Respondent did deposit the check to his account. Later, he worked with Ms. Flores in another transaction, where she sold a house; that transaction closed escrow on or about October 4, 2005. She was unhappy with the outcome of the transaction, claiming he had caused her to lose rents on the property. She then began to pressure Respondent for money, claiming he did not have consent to deposit the check. Respondent initially agreed to make payments to her, paying her \$2,500 in a two-day period in January 2005. But, when he refused to pay more, she went to the police, claiming he stole her check.

7. Respondent has no other criminal record, and no record of discipline with the Department; there have been no other complaints against him. Respondent completed his rather abbreviated criminal probation, has paid all fines and fees, and the former client has been made whole.¹ Respondent is an active participant in his church and its various activities, and otherwise in good standing in that community. He has a wife and children whom he supports through his licensed activities.

8. Respondent's wife, who handles the family finances, corroborated Respondent's version of events, as he had discussed the short-term loan to the client at the time he made it. Respondent and his wife were credible in their demeanor while testifying, answering questions in a straight-forward way, making good eye-contact, and giving no hint of prevarication.

9. Respondent's current broker is aware of this proceeding, and has represented that he would maintain Respondent in his employ, and supervise him closely if Respondent is allowed to keep his license.

¹ This is fairly inferred from the fact that the court did not make a restitution order as part of the probation terms; he was only ordered to pay a restitution fine, which is a common term in probation orders.

LEGAL CONCLUSIONS

1. Jurisdiction was established to proceed in this matter pursuant to section 10175 of the Business and Professions Code², based on Factual Findings 1 and 2.

2. The Respondent has been convicted of a crime of moral turpitude per se, based on Factual Findings 3 through 6, and *In Re Rothrock* (1944) 25 Cal.2d. 588.

3. In all the facts and circumstances, the conviction is substantially related to the duties, qualifications, and functions of a real estate licensee, pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1) and (a)(8)³, based on Factual Findings 3 through 6.

4. Based on Factual Findings 1 through 6 and Legal Conclusions 1 through 3, cause has been established to discipline the real estate salesperson's license held by Respondent, pursuant to section 10177, subdivision (b).

5. There are some mitigating facts, and there is evidence of rehabilitation, based on Factual Findings 7 through 9, and CCR section 2912, subdivisions (a)(b), (a)(e), (a)(g), (a)(j), (a)(l), and (a)(m).

6. The purpose of proceedings of this type are to protect the public, and not to punish an errant licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) It appears that the public can be adequately protected by the issuance of a restricted license to Respondent, coupled with a suspension sufficient to deter further misconduct on Respondent's part, and on the part of others.

Discussion and Rationale:⁴

The Respondent's conviction, for a crime of dishonesty, was directly connected to his license, which is a most serious matter. To be sure, the entire transaction, as described by

² All further statutory references shall be to the Business and Professions Code unless otherwise noted.

³ All further citations to the regulations shall be to title 10, and cited as "CCR."

⁴ The section that follows is within the ambit of Government Code section 11425.50, subdivision (d), and meant to provide a discussion of legal issues raised as well as key evidence, and a rationale for the findings, conclusions, and proposed order. So far as stated, it is intended to augment credibility findings. However, the evidence and authorities referenced are not necessarily the only ones relied on in reaching the decision.

Respondent, was irregular, as it was not documented in any way. It is reasonably inferred that Respondent, recognizing that fact, became rather skittish when his client demanded additional compensation, and then turned the police upon him. He had, after all, paid her two and one-half times the amount of the check in January 2005, but he finally balked at paying any more to her.

It is also reasonably inferred that his version of events, as described in this proceeding, was substantially accurate because there is no other explanation for a rather lenient sentence from the court. In the experience of the ALJ, a probation term of 30 days is unheard of; misdemeanors of any stripe routinely bring a three year probation.⁵ Hence, it may be inferred that the prosecution and the court were apprised of that Ms. Flores may have consented, at least tacitly, to the transaction.

Respondent appeared remorseful at the hearing, and as one who has learned his lesson. He has no other record of discipline, nor a criminal record, and the conviction appears to be an aberrant blot on his record. However, to make sure that he has learned that lesson, and so that others will be deterred, his license should not only be restricted, but it should be suspended as well, so that Respondent fully understands the ramifications of any further misconduct.

ORDER

The real estate salesperson's license held by Respondent Wilson Obed Quispe, number 01242473, is hereby revoked, provided, however, that a restricted real estate salesperson's license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code upon his application for such a restricted license. 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 shall be suspended for a period of two-weeks, immediately upon issuance of the restricted license.

2. The restricted 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;

⁵ The ALJ is entitled to evaluate evidence based on his experience and training. (Gov. Code, §11425.50, subd. (c).)

Not adopted

(B) The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulation 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 three (3) years have elapsed from the end of the period of suspension.

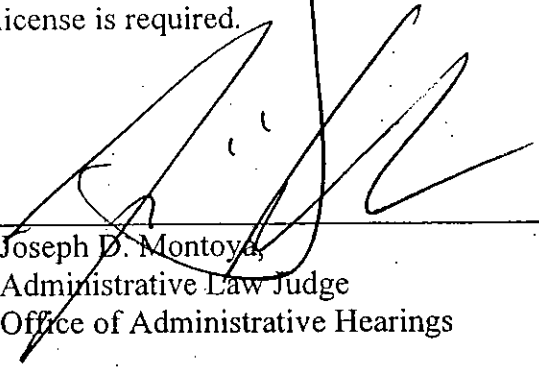
4. During the period that the restricted license is in effect Respondent shall obey all laws, rules, and regulations governing the rights, duties, and responsibilities of a real estate licensee in the State of California.

5. 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 which is the basis for issuing 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.

February 25, 2008



Joseph D. Montoya,
Administrative Law Judge
Office of Administrative Hearings

See

FILED

JUN 27 2007

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

DEPARTMENT OF REAL ESTATE
BY: [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-34080 LA
12 WILSON OBED QUISPE,)	<u>ACCUSATION</u>
13 Respondent.)	

14
15 The Complainant, Joseph Aiu, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against WILSON OBED QUISPE aka Obed Wilson Quispe-Sanchez, is
18 informed and alleges in her official capacity as follows:

19 1.

20 Respondent is presently licensed and/or has license
21 rights as a real estate salesperson under the Real Estate Law
22 (Part 1 of Division 4 of the California Business and Professions
23 Code) (Code).

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2.

Respondent was originally licensed by the Department of Real Estate of the State California as a real estate salesperson on October 7, 1998.

3.

On July 6, 2006, in the Superior Court of California, County of Riverside, respondent was convicted upon a guilty plea to one count of California Penal Code Section 475(c) (possess completed check/money order with intent to defraud), a misdemeanor crime.

4.

The crime alleged in Paragraph 3, by its facts and circumstances, involves moral turpitude and is substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licesnee.

5.

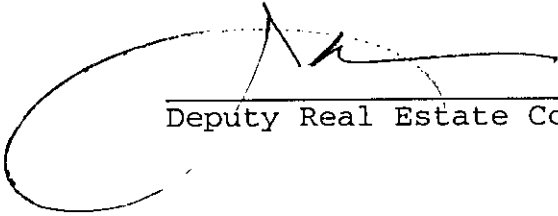
The crime alleged in Paragraph 3, above, constitute cause for the suspension or revocation of the license and license rights of respondent under Sections 490 and/or 10177(b) of the Business and Professions Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary action
4 against the license and license rights of respondent WILSON OBED
5 QUISPE under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provision of law.

8 Dated at Los Angeles, California

9 This June 27, 2007

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11 
12 _____
13 Deputy Real Estate Commissioner
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24 cc: Wilson Obed Quispe
25 Moreno Valley Realty Inc./Theodore James Boecker D.O.
26 Sacto
27 Joseph Aiu