

FILED

AUG 03 2010

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

In the Matter of the Application of)	No. H-36457 LA
)	
)	L-2010031377
DANIEL LUTE ORTIZ,)	
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated July 8, 2010, 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.

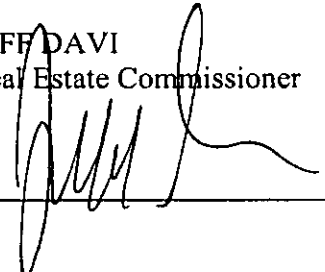
If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria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

AUG 23 2010 This Decision shall become effective at 12 o'clock noon on _____

IT IS SO ORDERED

7-27-2010

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

DANIEL LUTE ORTIZ,

Respondent.

Case No. H-36457 LA

OAH No. 2010031377

PROPOSED DECISION

Administrative Law Judge Sophie C. Agopian, Office of Administrative Hearings, heard this matter on May 13, 2010, in Los Angeles, California.

Julie L. To, Real Estate Counsel, represented Complainant, Maria Suarez, Deputy Real Estate Commissioner of the State of California. Respondent Daniel Lute Ortiz was present and represented himself.

Oral and documentary evidence was received during the hearing. The record was closed and the matter was submitted for decision on May 13, 2010, at the conclusion of the hearing.

FACTUAL FINDINGS

1. On May 20, 2008, Respondent submitted an application (application) to the Department of Real Estate (Department) for a real estate salesperson license.

2. On February 8, 2010, Complainant, acting in her official capacity, filed a Statement of Issues against Respondent denying his application. The Statement of Issues alleged that Respondent had been convicted of multiple crimes from 1983 through and including 2002, and failed to disclose a number of such crimes in his application. Respondent timely filed a request for hearing on the application, and this hearing ensued.

2002 Misdemeanor Conviction

3. On December 10, 2002, in the Superior Court of the County of Los Angeles, Case Number 2YH00299, Respondent pled nolo contendere and was convicted of violating Vehicle Code section 20002, subdivision (a) (hit and run with property damage), a misdemeanor crime that is substantially related to the

qualifications, functions and duties of a real estate licensee. Respondent served 50 days in county jail, was sentenced to 36 months probation, ordered to pay fees, fines and restitution, and ordered to participate in a 6-month first offender alcohol and drug education and counseling program. His driver's license was also suspended for one year.

4. The circumstances of the conviction are that Respondent side-swiped parked vehicles and failed to come to a complete stop when pulled over by the police. He was under the influence of alcohol at the time and was concurrently charged and convicted of driving under the influence of alcohol (DUI).

5. Respondent served his jail sentence, completed payment of the fees, fines and restitution and otherwise complied with the terms of his probation. Having complied with such terms, his probation terminated early on September 13, 2004. Respondent has not had a conviction since this incident and contends that this conviction and several others prior to it are not a reflection of who he is now.

Felony and Misdemeanor Convictions from 1983 through 1996

6. From 1983 through and including 1996, Respondent committed four felonies, two for which he served a prison sentence, and five misdemeanor crimes substantially related to the qualifications, functions and duties of a licensee.

a. On March 29, 1996, in the Superior Court of the County of Los Angeles, Case Number GA026641, Respondent pled guilty and was convicted of violating Penal Code section 215, subdivision (a), (carjacking), a felony. Respondent was sentenced to six years in prison.

i. The circumstances of this conviction are that on December 9, 1995, Respondent was walking home with a friend and asked a man for a ride home. When the man refused, Respondent and his friend pulled the man out of his car and stole his car. Respondent was 34 years old when he committed this crime and was on parole for a previous felony conviction.

b. On August 17, 1992, in the Superior Court of the County of Los Angeles, Case Number BA052406, Respondent was convicted of violating Penal Code section 211, (second degree robbery) and Vehicle Code section 2800.2 (evading an officer, willful disregard), both felonies. Respondent was sentenced to five years in prison and ordered to pay fines.

i. The circumstances of this conviction are that on January 22, 1992, Respondent and his friend robbed a man at gunpoint, stole his car, and fled from the police in a high-speed pursuit, until Respondent later was abducted by the police.

c. On July 11, 1990, in the Superior Court of the County of Los Angeles, Case Number 90M11422, Respondent pled guilty and was convicted of violating Penal Code sections 243, subdivision (b), (battery on a peace officer) and 148, subdivision (a), (resisting or obstructing a public officer/peace officer), both misdemeanors. Respondent was sentenced to 12 months in jail.

i. The circumstances of these convictions were not established by the evidence as Complainant did not submit a police report regarding the incident and Respondent did not testify about the circumstances of this crime.

d. On December 28, 1988, in the Superior Court of the County of Los Angeles, Case Number 88F12841, Respondent pled guilty and was convicted of violating Penal Code section 666 (petty theft with a prior jail term), a misdemeanor. Respondent was sentenced to two years probation.

i. The circumstances of this conviction are that Respondent stole two twelve packs of beer from a liquor store, while on probation for a previous burglary conviction.

e. On May 20, 1987, in the Superior Court of the County of Los Angeles, Case Number A781806, Respondent pled guilty and was convicted of violating Penal Code section 459 (burglary in the second degree), a felony. Respondent was sentenced to 365 days in jail and 36 months probation.

i. The circumstances of this conviction are that on April 12, 1986, Respondent broke into a locked public building and stole several items from the building.

f. On June 6, 1985, in the Superior Court of the County of Los Angeles, Case Number 31327879, Respondent pled nolo contendere and was convicted of violating Penal Code section 484 (theft), a misdemeanor. Respondent was sentenced to 30 days in jail.

i. The circumstances of this conviction are that Respondent stole beer and wine from a grocery store.

g. On October 17, 1983, in the Superior Court of the County of Los Angeles, Case Number 31267105, Respondent pled nolo contendere and was convicted of violating Penal Code section 470 (forgery), a misdemeanor. Respondent served 180 days in jail, was sentenced to 24 months probation, and ordered to pay fines.

i. The circumstances of this conviction are that Respondent forged checks and attempted to cash them at a bank.

Aggravating Circumstances

7. As matters in aggravation, from 1984 through and including 2002, Respondent was convicted of six drug and/or alcohol-related offenses. Offenses occurring prior to and in 1987 involved the use and/or possession of controlled substances, including "PCP." On August 4, 1988, Respondent was convicted of fighting in a public place. The most recent conviction was the DUI that occurred with the hit-and-run incident on December 10, 2002.

8. Respondent presented himself in an honest and forthright manner and accepted full responsibility for his criminal past. He did not attempt to make excuses for his criminal conduct and admitted that his conduct was the result of making "bad choices." The majority of the convictions occurred when Respondent was in his twenties and mid-thirties and were concurrent with an obvious alcohol and/or drug use problem. Respondent admitted that he chose to be around the "wrong people" during that time. According to Respondent, he has remained drug-free since 1987. He is now 49 years old and has matured. He was unemployed when he committed many of the crimes and explained that one day, after being released from prison, he had an epiphany that changed his life. He was standing on his porch watching people go to work in the morning and decided to turn his life around and "become one of those people." In 2001, he earned his truck driver's license, and is now a full-time truck driver. He no longer associates with the friends he had in the past. He spends his free-time at home with his wife and two teenage sons. He has been married for 18 years. His wife is supportive of him and established that he has been honest with her about his crimes, and despite the trouble that he has been in, he is now a good husband and good father. He has coached youth sports teams for six years. He has also not had a conviction for six years. Respondent explained that it took him a long time to grow up, but now that he has grown up, he wants a second chance in life. He wants to earn his real estate salesperson license so that he can enter a new field of work to support his family as he is getting too old to drive long hours, especially at night.

9. Although Respondent explained that he has not used alcohol since his hit-and-run/driving under the influence conviction in 2002, he did not establish that he has pursued or continued with any treatment for alcohol beyond what the court ordered in 2002. However, his ability to maintain a clean record since 2002, particularly as a full-time truck driver, establishes that alcohol use may no longer be a problem for him.

Nondisclosure

10. Respondent failed to disclose all of his convictions in the real estate salesperson application that he submitted to the Department. While he disclosed all of his felony convictions and his most recent hit-and-run/DUI conviction, he failed to disclose the misdemeanor convictions set forth in Factual Findings 6c, 6d, 6f, 6g and

7, including battery/resistance against a peace officer, petty theft, forgery and drug use/possession. Respondent's failure to disclose these matters constitutes a material misstatement of fact because such crimes relate to the qualifications, functions and/or duties of a real estate licensee. However, Respondent's failure to disclose these matters was not intentional. He explained that he obtained the information from his probation officer, which he believed to be complete. He now understands that he should have investigated the matter further with the Department of Justice in order to ensure a complete application. Respondent's omission of the earlier convictions, although not excusable, was not for the purpose of misleading the Department about his criminal past because Respondent disclosed the more serious convictions on his record.

Sponsoring Broker

11. Real estate broker, Yvonne Dowland, established that she would be willing to sponsor and/or supervise Respondent if he were granted a restricted real estate salesperson license. Ms. Dowland has extensive experience as a real estate broker and instructor. She is the vice president of her local board of realtors and has earned a position on the ethics committee. She met Respondent in 2007 when he was one of her students in a real estate class. Respondent immediately disclosed to Ms. Dowland that he had prior convictions about which he was concerned. Ms. Dowland has learned about the nature of his convictions and continues to have confidence in Respondent's ability and ethics to practice real estate. Ms. Dowland is impressed that Respondent has been able to turn his life around and has done so for a number of years. Ms. Dowland is an active and "hands-on" broker. She provides one-to-one coaching to her agents, maintains contact with them through weekly meetings, and ensures that all of her agents are ethical. She does not know of any agent that has a restricted license, but is more than willing to sponsor Respondent because she knows his family and his history, and believes that he will conduct himself professionally and ethically.

LEGAL CONCLUSIONS

1. The Department alleges the following grounds upon which to deny Respondent's application for licensure:

a. *Criminal Convictions.* Business and Professions Code¹ sections 475, subdivision (a)(2), 480, subdivision (a)(1), and 10177, subdivision (b), permit denial of a license when the applicant has been convicted of a crime that is a felony, or is "substantially related to the qualifications, functions, or duties of a real estate licensee." (§ 10177, subd. (b).)

¹ All statutory references are to the Business and Professions Code unless otherwise indicated.

A conviction within the meaning of [section 480] means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. (Bus. & Prof. Code, § 480, subd. (a)(1); *see also*, § 10177, subd. (b).)

b. *Failure to Disclose.* Sections 475, subdivision (a)(1), 480, subdivision (c), and 10177, subdivision (a), further permit the denial of a license to an applicant who has attempted to procure, a real estate license by “fraud, misrepresentation or deceit,” or “by making a material misstatement of fact in an application,” or who has “knowingly” made a “false statement” or an omission of fact in an application for a license. (Bus. & Prof. Code, §§ 475, subd. (a)(1), 480, subd. (c), and 10177, subd. (a).)

2. *First Cause for Denial.* Cause exists to deny Respondent’s application for a real estate salesperson license pursuant to sections 475, subdivision (a)(2), 480, subdivision (a), and 10177, subdivision (b), because Respondent was convicted of four felonies and several misdemeanor crimes that are substantially related to the qualifications, functions and duties of a real estate licensee. (Factual Findings 3 & 6.)

a. Under the regulations adopted by the Real Estate Commissioner, California Code of Regulations, title 10 (10 CCR), a crime is substantially related to the qualifications, functions or duties of a Department licensee if it involves:

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

(2) Counterfeiting, forging or altering of an instrument or the uttering of a false statement.

[¶] . . . [¶]

(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.

b. Respondent’s misdemeanor convictions involved a hit-and-run with property damage, battery and resistance against a peace officer, petty theft and forgery. (Factual Findings 3 and 6.) These crimes were committed for the purpose of obtaining an economic benefit and/or with the intent or threat of injuring another person and are therefore substantially related to the duties of a licensee. Respondent’s felony convictions constitute independent grounds for denial primarily because of their severity. However, the felonies are also related to the duties of a licensee in that

they involved theft of property and/or threat of injury to another person, but to a greater extent. Because real estate licensees must be trusted to have access to people's homes and belongings, Respondent's convictions are good cause to deny him a license.

3. *Second Cause for Denial.* Cause further exists to deny Respondent's application for a real estate salesperson license pursuant to section 10177, subdivision (a), because Respondent omitted material facts regarding his prior convictions in his application. (Factual Finding 10.) The omissions, however, were not intentional. Respondent believed that he had disclosed his complete record in the application because he obtained the information from the probation department. (Factual Finding 10.) Respondent disclosed the most recent and most serious convictions which independently constitute grounds for denial of his application. Therefore, while Respondent's failure to disclose the misdemeanor convictions provides cause to deny his application, that failure did not deceive or mislead the Department regarding the severity of Respondent's criminal past. The Department, for the most part, was informed that he had serious prior convictions. Because Respondent's omissions were not made knowingly and were not for the purpose of deceiving the Department into granting him a license, cause does not exist to deny his application under sections 475, subdivision (a), and 480, subdivision (c).

4. As cause exists to deny Respondent's application pursuant to Legal Conclusions 1 through 3, Respondent bears the burden of establishing his rehabilitation. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1950) 52 Cal.2d 259, 264-265.)

5. The Department has established a regulation to measure the extent of an applicant's rehabilitation following a criminal conviction.

The following criteria [rehabilitation criteria, subdivisions (a) through (n)] have been developed by the department pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.

- (c) Expungement of criminal convictions resulting from immoral or antisocial acts.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.
- (n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:
 - (1) Testimony of applicant.
 - (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

(10 CCR, § 2911.)

6. Although Respondent's criminal record is extensive and serious, Respondent has established his rehabilitation pursuant to the regulatory criteria. Respondent's most recent convictions were misdemeanors and they occurred almost six years ago. (10 CCR, § 2911, subd. (a), Factual Findings 3 and 7.) Respondent paid restitution, complied with other terms of his probation, and was released from probation in 2004. (10 CCR, § 2911, subds (b) & (e), Factual Finding 5.) Because alcohol was a factor in his most recent conviction, Respondent since has abstained from drinking alcohol and it no longer appears to be a problem for him. (10 CCR, § 2911, subd. (f), Factual Findings 5 & 9.) All of Respondent's other convictions, including the most serious ones, occurred almost 15 years ago and he has served a number of years in prison as a consequence. (10 CCR, § 2911, subds. (a) & (e), Factual Finding 6.) Some of the earlier crimes, he admits, occurred as a result of a drug problem. However, he stopped using drugs in 1987. (10 CCR, § 2911, subd. (f), Factual Finding 8.)

Respondent has not only demonstrated a change in attitude about his life going forward, but his conduct establishes that he is progressing on the right track. (10 CCR, § 2911, subd. (n), Factual Finding 8.) He is committed to, and supported by, his family and has learned a trade that has earned him employment. (10 CCR, § 2911, subds. (h) & (i), Factual Finding 8.) Respondent has even earned the confidence of an established broker, who has agreed to supervise and/or sponsor him in the event that he is granted a restricted license. (Factual Finding 11.) Respondent's honest demeanor, his willingness to accept responsibility for his prior convictions, and his determination and actions to improve his life were afforded significant weight in establishing his rehabilitation.

7. Because Respondent's extensive criminal history remains a considerable factor concerning the public's protection, it would be in the public's best interest at this time to grant him a restricted license for a period of two years.

ORDER

Respondent Daniel Lute Ortiz'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 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 the 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 or 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 shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's

failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: July 8, 2010


SOPHIE C. AGOPIAN
Administrative Law Judge
Office of Administrative Hearings

JULIE L. TO, Counsel (SBN 219482)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6916

FILED

FEB - 8 2010

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-36457 LA
))
DANIEL LUTE ORTIZ,) <u>STATEMENT OF ISSUES</u>
))
Respondent.)
))

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against DANIEL LUTE ORTIZ, a.k.a. Daniel Lut Ortiz or Dany Ortiz, Jr. or Daniel Ortiz, Jr. ("Respondent"), is informed and alleges as follows:

1.

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

2.

On or about May 20, 2008, Respondent made application to the Department of Real Estate of the State of California for

1 a real estate salesperson license.

2 FIRST CAUSE FOR DENIAL

3 (CRIMINAL CONVICTIONS)

4 3.

5 On or about December 10, 2002, in the Superior Court
6 of California, County of Los Angeles, Case No. 2YH00299,
7 Respondent was convicted of violating Vehicle Code Section
8 20002(a) (hit and run with property damage), a misdemeanor.
9 Respondent was sentenced to 36 months probation and ordered to
10 pay restitution to the victim.

11 4.

12 On or about March 29, 1996, in the Superior Court of
13 California, County of Los Angeles, Case No. GA026641, Respondent
14 was convicted of violating Penal Code Section 215(a)
15 (carjacking), a felony. Respondent was sentenced to six years in
16 prison.

17 5.

18 On or about August 17, 1992, in the Superior Court of
19 California, County of Los Angeles, Case No. BA052406, Respondent
20 was convicted of violating California Penal Code Section 211
21 (second degree robbery) and Vehicle Code Section 2800.2 (evading
22 an officer, willful disregard), both felonies. Respondent was
23 sentenced to five years in prison and ordered to pay fines.

24 6.

25 On or about July 11, 1990, in the Superior Court of
26 California, County of Los Angeles, Case No. 90M11422, Respondent
27 was convicted of violating Penal Code Sections 243(b) (battery

1 on a peace officer) and 148(a) (resisting or obstructing a
2 public officer/peace officer), both misdemeanors. Respondent
3 was sentenced to twelve months probation and seven days in jail.

4 7.

5 On or about December 28, 1988, in the Superior Court
6 of California, County of Los Angeles, Case No. 88F12841,
7 Respondent was convicted of violating Penal Code Section 666
8 (petty theft with a prior jail term), a misdemeanor. Respondent
9 was sentenced to two years probation.

10 8.

11 On or about May 20, 1986, in the Superior Court of
12 California, County of Los Angeles, Case No. A781806, Respondent
13 was convicted of violating Penal Code Section 459 (burglary in
14 the second degree), a felony. Respondent was sentenced to 36
15 months probation and 365 days in jail.

16 9.

17 On or about June 6, 1985, in the Superior Court of
18 California, County of Los Angeles, Case No. 31327879, Respondent
19 was convicted of violating Penal Code Section 484 (theft), a
20 misdemeanor. Respondent was sentenced to 30 days in jail.

21 10.

22 On or about October 17, 1983, in the Superior Court of
23 California, County of Los Angeles, Case No. 31267105, Respondent
24 was convicted of violating Penal Code Section 470 (forgery), a
25 misdemeanor. Respondent was sentenced to 24 months probation,
26 180 days in jail, and ordered to pay fines.

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

11.

In aggravation, on or about December 10, 2002, in the Superior Court of California, County of Los Angeles, Case No. 2YH00299, Respondent was convicted of violating California Vehicle Code Section 23152(a) (driving under the influence of alcohol or drugs), a misdemeanor. Respondent was sentenced to 36 months probation, 47 days in jail, and ordered to pay fines.

12.

In aggravation, on or about August 4, 1988, in the Superior Court of California, County of Los Angeles, Case No. 88M00831, Respondent was convicted of violating Penal Code Section 415 (fighting, causing loud noise, or using offensive words in public place), a misdemeanor. Respondent was sentenced to 30 days in jail.

13.

In aggravation, on or about May 1, 1987 in the Superior Court of California, County of Los Angeles, Case No. M867813-02, Respondent was convicted of violating Health and Safety Code Section 11550(b) (use/under the influence of a controlled substance), a misdemeanor. Respondent was sentenced to three years probation and 60 days in jail.

14.

In aggravation, on or about October 31, 1985, in the Superior Court of California, County of Los Angeles, Case No. 31342690, Respondent was convicted of violating Health and Safety Code Section 11550(b) (use/under the influence of a

1 controlled substance), a misdemeanor. Respondent was sentenced
2 to 30 days in jail.

3 15.

4 In aggravation, on or about February 24, 1984, in the
5 Superior Court of California, County of Los Angeles, Case No.
6 31273464, Respondent was convicted of violating health and
7 Safety Code Section 35172(5), a misdemeanor. Respondent was
8 sentenced to 40 days in jail.

9 16.

10 In aggravation, on or about January 17, 1984, in the
11 Superior Court of California, County of Los Angeles, Case No.
12 M240337, Respondent was convicted of violating Health and Safety
13 Code Section 11550(b) (use/under the influence of a controlled
14 substance), a misdemeanor. Respondent was sentenced to 24
15 months probation, and 365 days in jail.

16 17.

17 The crimes described in Paragraphs 3 through 10, by
18 their facts and circumstances, bear a substantial relationship
19 under Section 2910, Title 10, Chapter 6, California Code of
20 Regulations, to the qualifications, functions or duties of a
21 real estate licensee.

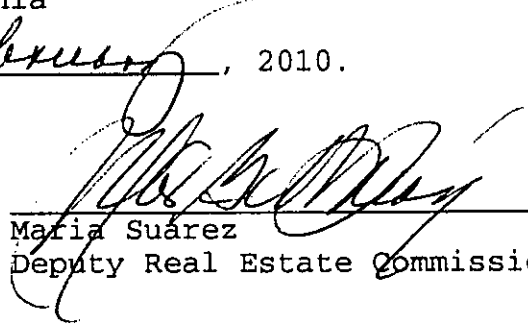
22 18.

23 The crimes of which Respondent was convicted, as
24 described in Paragraphs 3 through 10, constitute cause for
25 denial of Respondent's application for a real estate license
26 under Business and Professions Code Sections 475(a)(2), 480(a),
27 and 10177(b).

1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, upon proof of the
3 charges contained herein, that the Commissioner refuse to
4 authorize the issuance of, and deny the issuance of, a real
5 estate salesperson license to Respondent, DANIEL LUTE ORTIZ, and
6 for such other and further relief as may be proper in the
7 premises.

8 Dated at Los Angeles, California

9 this 3rd day of February, 2010.

10
11 
12 _____
13 Maria Suárez
14 Deputy Real Estate Commissioner
15
16
17
18
19
20
21
22
23
24
25

26 cc: DANIEL LUTE ORTIZ
27 YD Enterprises
 Maria Suarez
 Sacto