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**FILED**

**AUG 29 2023**

**DEPT. OF REAL ESTATE**

By 

9  
10 BEFORE THE DEPARTMENT OF REAL ESTATE  
11 STATE OF CALIFORNIA

12 \* \* \*

13 In the Matter of the Application of ) No. H-42661 LA  
14 )  
15 MATTHEW BRIAN LARA, ) Statement of Issues  
16 ) Real Estate Salesperson Application  
17 ) Respondent. )

17 The Complainant, Jason Parson, a Supervising Special Investigator of the State  
18 of California, makes this Statement of Issues against MATTHEW BRIAN LARA (Respondent)  
19 in his official capacity and alleges as follows:

20 1.

21 All references to the "Code" are to the California Business and Professions Code  
22 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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27 DRE Statement of Issues on Application: Matthew Brian Lara, H-42661 LA

1 **DRE APPLICATION**

2 2.

3 On or about August 27, 2021, Respondent submitted a Salesperson License  
4 Application (Form RE 435, Rev. 11/20) to the Department of Real Estate (“DRE” or  
5 “Department”) of the State of California for a real estate salesperson (RES) license.

6 **CRIMINAL CONVICTIONS**

7 3.

8 **March 16, 2015: Felony Convictions for Violations of**

9 **Title 18, United States Code Sections 1344 and 1028A**

10 **(United States District Court, Central District of California, Case No. SA14-159M)**

11 According to certified court records (certified on July 11, 2022), on or about  
12 April 23, 2014, in the United States District Court, Central District of California, in Magistrate  
13 Case No. SA14-159M, United States of America v. Matthew Lara, a Criminal Complaint was  
14 filed that charged Respondent with violation of title 18, United States Code (U.S.C.), Section  
15 1344 (bank fraud) and Section 1028A (aggravated identity theft).

16 4.

17 According to certified court records (certified on July 11, 2022), on or about  
18 September 24, 2014, in the United States District Court, Central District of California,  
19 September 2014 Grand Jury, in Case No. SACR14-00163, United States of America v.  
20 Matthew Lara, an indictment was issued that charged Respondent with violation of: [Count  
21 One] 18 U.S.C. Section 1344 (bank fraud) and [Count 2], 18 U.S.C. Section 1028A(a)(1)  
22 (aggravated identity theft).

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1 5.

2 According to certified court records (certified on July 11, 2022), in the United  
3 States District Court, Central District of California, Southern Division, in Case No. SACR14-  
4 163-CJC, United States of America v. Matthew Lara, on or about October 6, 2014, Respondent  
5 pled guilty to Count 1 (18 U.S.C. Section 1344 (bank fraud)) and Count 2 (18 U.S.C. Section  
6 1028A(a)(1) (aggravated identity theft)).

7 6.

8 According to certified court records (certified on July 11, 2022), in the United  
9 States District Court, Central District of California, Southern Division, in Case No. SACR14-  
10 163-CJC, United States of America v. Matthew Lara, on or about March 16, 2015, the court  
11 accepted Respondent's guilty plea and convicted Respondent as charged of the offenses of  
12 bank fraud in violation of 18 U.S.C. Section 1344 (Count 1) and aggravated identity theft in  
13 violation of 18 U.S.C. Section 1028A(a)(1) (Count 2). Respondent was sentenced to the  
14 custody of the Bureau of Prisons for 42 months (comprised of 18 months on Count 1 and 24  
15 months on Count 2), and upon release from imprisonment, supervised release for five (5) years.  
16 In addition, the court ordered Respondent to pay a special assessment and restitution and to  
17 participate in an outpatient substance abuse program.

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DRE Statement of Issues on Application: Matthew Brian Lara, H-42661 LA

1 7.

2 [Aggravation]

3 June 13, 2014: Felony, Misdemeanor Convictions for Violation of

4 Health and Safety Code Sections 11377(a) and 11364

5 (Orange County Case No. 12HM00691; expunged)

6 According to certified court records (certified on December 13, 2022), on or  
7 about June 13, 2014, in the Superior Court of California, Orange County, in Case No.  
8 14NF1044MA, The People of the State of California vs. Matthew Brian Lara a.k.a. Matthew  
9 Lara a.k.a. Mathew Brian Lara a.k.a. Matthew Brian Lara, Respondent pled guilty to Counts 2  
10 and 3 of the underlying Complaint for his violation of Health and Safety (HS) Code Section  
11 11377(A) (possession of a controlled substance, a felony) and Section 11364.1(A) (possession  
12 of controlled substance paraphernalia, a misdemeanor), respectively.

13 8.

14 According to the aforementioned certified court records, on or about March 8,  
15 2021, in Case No. 14NF1044MA, the Court set aside Respondent's guilty pleas as to Counts 2  
16 and 3 and dismissed the case pursuant to Penal Code (PC) Section 1203.4a.

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DRE Statement of Issues on Application: Matthew Brian Lara, H-42661 LA

1 9.

2 [Aggravation]

3 August 27, 2013: Misdemeanor Conviction for Violation of Penal Code Sections 459-460(b)

4 (Orange County Case No. 13CF2401MA; expunged)

5 According to certified court records (certified on October 26, 2022), on or about  
6 August 27, 2013, in the Superior Court of California, Orange County, in Case No.  
7 13CF2401MA, The People of the State of California vs. Matthew Brian Lara a.k.a. Matthew B.  
8 Lara a.k.a. Mathew Brian Lara [and two co-defendants], Respondent pled guilty to Count 1 of  
9 the underlying Complaint for his violation of PC Sections 459-460(B) (second degree  
10 commercial burglary).

11 10.

12 According to the aforementioned certified court records, on or about June 22,  
13 2021, in Case No. 13CF2401MA, the Court set aside Respondent's guilty plea as to Count 1,  
14 Respondent entered a not guilty plea, and the case was dismissed pursuant to PC Section  
15 1203.4a.

16 11.

17 [Aggravation]

18 September 28, 2012: Felony Conviction for Violation of

19 Health and Safety Code Section 11377(a)

20 (Orange County Case No. 11WF2306; expunged)

21 According to certified court records (certified on November 3, 2022), on or  
22 about December 8, 2011, in the Superior Court of California, Orange County, in Case No.  
23 11WF2306, The People of the State of California vs. Matthew Brian Lara a.k.a. Matthew B.  
24 Lara a.k.a. Mathew Brian Lara, Respondent pled guilty to Count 1 of the underlying Complaint

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27 DRE Statement of Issues on Application: Matthew Brian Lara, H-42661 LA

1 for his violation of HS Code Section 11377(A) (possession of a controlled substance, a felony),  
2 and the court deferred entry of judgment until September 28, 2012.

3 12.

4 According to the aforementioned certified court records, on or about June 2,  
5 2021, in Case No. 11WF2306, the Court set aside Respondent's guilty plea as to Count 1,  
6 Respondent entered a not guilty plea, and the case was dismissed pursuant to PC Section  
7 1203.4a.

8 13.

9 [Aggravation]

10 December 2, 2011: Misdemeanor Conviction for Violations of  
11 Penal Code Section 243(E)(1) and Health and Safety Code Section 11364  
12 (Orange County Case No. 11NF2968)

13 According to certified court records (certified on December 13, 2022), on or  
14 about December 2, 2011, in the Superior Court of California, Orange County, in Case No.  
15 11NF2968, The People of the State of California vs. Matthew Brian Lara a.k.a. Matthew B.  
16 Lara a.k.a. Mathew Brian Lara, Respondent pled guilty to Counts 2 and 3 of the underlying  
17 Complaint for his violation of PC Code Section 243(E)(1) (domestic violence battery, a  
18 misdemeanor) and HS Code Section 11364 (possession of controlled substance paraphernalia, a  
19 misdemeanor), respectively.

20 14.

21 According to the aforementioned certified court records, on or about March 8,  
22 2021, in Case No. 11NF2968, the Court set aside Respondent's guilty pleas as to Counts 2 and  
23 3, Respondent entered not guilty pleas, and the case was dismissed pursuant to PC Section  
24 1203.4.

1 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

2 15.

3 Grounds for Denial of a License

4 (Code Section 475)

5 Pursuant to Code Section 475 *Grounds for Denial of a License*:

6 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall  
7 govern the denial of licenses on the grounds of: (1) Knowingly making a false statement of  
8 material fact, or knowingly omitting to state a material fact, in an application for a license. (2)  
9 Conviction of a crime. (3) Commission of any act involving dishonesty, fraud or deceit with the  
10 intent to substantially benefit himself or another, or substantially injure another. (4)  
11 Commission of any act which, if done by a licentiate of the business or profession in question,  
12 would be grounds for suspension or revocation of license. (b) Notwithstanding any other  
13 provisions of this code, the provisions of this division shall govern the suspension and  
14 revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a). (c) A  
15 license shall not be denied, suspended, or revoked on the grounds of a lack of good moral  
16 character or any similar ground relating to an applicant’s character, reputation, personality, or  
17 habits.”

18 16.

19 Denial of License by Board

20 (Code Section 480)

21 Pursuant to Code Section 480 *Denial of License by Board*:

22 “(a) Notwithstanding any other provision of this code, a board may deny a  
23 license regulated by this code on the grounds that the applicant has been convicted of a crime  
24 or has been subject to formal discipline only if either of the following conditions are met:

1 (1) The applicant has been convicted of a crime within the preceding  
2 seven years from the date of application that is substantially related to the  
3 qualifications, functions, or duties of the business or profession for which the  
4 application is made, regardless of whether the applicant was incarcerated for that  
5 crime, or the applicant has been convicted of a crime that is substantially related  
6 to the qualifications, functions, or duties of the business or profession for which  
7 the application is made and for which the applicant is presently incarcerated or  
8 for which the applicant was released from incarceration within the preceding  
9 seven years from the date of application. However, the preceding seven-year  
10 limitation shall not apply in either of the following situations:

11 (A) The applicant was convicted of a serious felony, as defined in  
12 Section 1192.7 of the Penal Code or a crime for which  
13 registration is required pursuant to paragraph (2) or (3) of  
14 subdivision (d) of Section 290 of the Penal Code.

15 (B) The applicant was convicted of a financial crime currently  
16 classified as a felony that is directly and adversely related to the  
17 fiduciary qualifications, functions, or duties of the business or  
18 profession for which the application is made, pursuant to  
19 regulations adopted by the board, and for which the applicant is  
20 seeking licensure under any of the following:

- 21 (i) Chapter 1 (commencing with Section 5000) of Division 3.  
22 (ii) Chapter 6 (commencing with Section 6500) of Division 3.  
23 (iii) Chapter 9 (commencing with Section 7000) of Division 3.  
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(iv) Chapter 11.3 (commencing with Section 7512) of Division 3.

(v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the

1 conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or  
2 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has  
3 a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42  
4 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report  
5 furnished by the Department of Justice.

6 (d) Notwithstanding any other provision of this code, a board shall not deny a  
7 license on the basis of an arrest that resulted in a disposition other than a conviction, including  
8 an arrest that resulted in an infraction, citation, or a juvenile adjudication.

9 (e) A board may deny a license regulated by this code on the ground that the  
10 applicant knowingly made a false statement of fact that is required to be revealed in the  
11 application for the license. A board shall not deny a license based solely on an applicant's  
12 failure to disclose a fact that would not have been cause for denial of the license had it been  
13 disclosed.

14 (f) A board shall follow the following procedures in requesting or acting on an  
15 applicant's criminal history information:

16 (1) A board issuing a license pursuant to Chapter 3 (commencing with  
17 Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10  
18 (commencing with Section 7301), Chapter 20 (commencing with Section 9800),  
19 or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3  
20 (commencing with Section 19000) or Chapter 3.1 (commencing with Section  
21 19225) of Division 8 may require applicants for licensure under those chapters  
22 to disclose criminal conviction history on an application for licensure.

23 (2) Except as provided in paragraph (1), a board shall not require an  
24 applicant for licensure to disclose any information or documentation regarding  
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1 the applicant's criminal history. However, a board may request mitigating  
2 information from an applicant regarding the applicant's criminal history for  
3 purposes of determining substantial relation or demonstrating evidence of  
4 rehabilitation, provided that the applicant is informed that disclosure is  
5 voluntary and that the applicant's decision not to disclose any information shall  
6 not be a factor in a board's decision to grant or deny an application for licensure.

7 (3) If a board decides to deny an application for licensure based solely or  
8 in part on the applicant's conviction history, the board shall notify the applicant  
9 in writing of all of the following:

10 (A) The denial or disqualification of licensure.

11 (B) Any existing procedure the board has for the applicant to  
12 challenge the decision or to request reconsideration.

13 (C) That the applicant has the right to appeal the board's

14 decision. (D) The processes for the applicant to request a copy of  
15 the applicant's complete conviction history and question the  
16 accuracy or completeness of the record pursuant to Sections  
17 11122 to 11127 of the Penal Code.

18 (g) (1) For a minimum of three years, each board under this code shall retain  
19 application forms and other documents submitted by an applicant, any notice provided to an  
20 applicant, all other communications received from and provided to an applicant, and criminal  
21 history reports of an applicant.

22 (2) Each board under this code shall retain the number of applications  
23 received for each license and the number of applications requiring inquiries regarding criminal  
24 history. In addition, each licensing authority shall retain all of the following information:  
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- (A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.
- (B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.
- (C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.
- (D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board’s internet website and through a report submitted to the appropriate policy committees of the Legislature identified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.”

///

Further Grounds for Disciplinary Action

(Code Section 10177, selected portions)

Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

“The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation’s stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for themselves or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) (1) Entered a plea of guilty or no contest to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw that licensee’s plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

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(2) Notwithstanding paragraph (1), and with the recognition that sentencing may not occur for months or years following the entry of a guilty plea, the commissioner may suspend the license of a real estate licensee upon the entry by the licensee of a guilty plea to any of the crimes described in paragraph (1). If the guilty plea is withdrawn, the suspension shall be rescinded, and the license reinstated to its status prior to the suspension. The department shall notify a person whose license is subject to suspension pursuant to this paragraph of that person's right to have the issue of the suspension heard in accordance with Section 10100..."

18.

Criteria of Substantial Relationship

(Regulation 2910)

Pursuant to Regulation 2910 *Criteria of Substantial Relationship*:

“(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Bureau within the meaning of Sections 480 and 490 of the Code if it involves:

- (1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.
- (2) Counterfeiting, forging or altering of an instrument or the uttering of a false statement.

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(3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state, or local government.

(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

(5) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code.

(6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.

(7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.

(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.

(9) Contempt of court or willful failure to comply with a court order.

(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

(11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

1 (b) The conviction of a crime constituting an attempt, solicitation or conspiracy  
2 to commit any of the above enumerated acts or omissions is also deemed to be substantially  
3 related to the qualifications, functions or duties of a licensee of the department.

4 (c) If the crime or act is substantially related to the qualifications, functions or  
5 duties of a licensee of the department, the context in which the crime or acts were committed  
6 shall go only to the question of the weight to be accorded to the crime or acts in considering the  
7 action to be taken with respect to the applicant or licensee.”

8 **CAUSE FOR DENIAL**

9 19.

10 The crimes of which Respondent was convicted, as described above in  
11 Paragraphs 3 through 6, by their facts and circumstances, bear a substantial relationship to the  
12 qualifications, functions or duties of a real estate licensee pursuant to **Section 2910, Title 10,**  
13 **Chapter 6, California Code of Regulations.**

14 20.

15 The crimes of which Respondent was convicted, as described above in  
16 Paragraphs 3 through 6, constitute cause for denial of Respondent’s application for a real estate  
17 salesperson license pursuant to **California Business and Professions Code Sections**  
18 **475(a)(2), 480(a)(1), and 10177(b).**

19 21.

20 These proceedings are brought under the provisions of Section 10100, Division  
21 4 of the Business and Professions Code of the State of California and Sections 11500 through  
22 11528 of the California Government Code.

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WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, MATTHEW BRIAN LARA, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California: August 28, 2023.



Jason Parson  
Supervising Special Investigator

cc: Matthew Brian Lara  
LA Enforcement - Jason Parson  
Sacto.