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FILED

MAR 25 2016

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of:)
12) No. H- 3007 FR
13 JOSE VICTORIANO CIBRIAN,)
14) STATEMENT OF ISSUES
Respondent.)
15)

16 The Complainant, BRENDA SMITH, acting in her official capacity as a
17 Supervising Special Investigator of the State of California, brings this Statement of Issues
18 against JOSE VICTORIANO CIBRIAN ("Respondent"), and is informed and alleges as
19 follows:

20 1

21 Respondent made application to the Bureau of Real Estate of the State of
22 California for a real estate salesperson license on or about March 6, 2015.

23 FAILURE TO DISCLOSE CONVICTION

24 2

25 In response to Question 32 of said application, to wit: HAVE YOU EVER BEEN
26 CONVICTED (SEE PARAGRAPH ABOVE) OF ANY VIOLATION OF THE LAW AT THE
27 MISDEMEANOR OR FELONY LEVEL? IF YES, COMPLETE ITEM 38 WITH

1 **INFORMATION ON EACH CONVICTION,”** Respondent concealed and failed to disclose
2 the convictions described below in Paragraphs 4, 6 and 7.

3 CRIMINAL CONVICTIONS

4 3

5 On or about September 15, 2014, in the Superior Court of the State of California,
6 County of Merced, Case No. CRM033888, Respondent was convicted of violating Penal Code
7 section 273.5(a) (corporal injury to a spouse/cohabitant/child’s parent), a misdemeanor which
8 bears a substantial relationship under section 2910, title 10, California Code of Regulations
9 (“the Regulations”), to the qualifications, functions, or duties of a real estate licensee.

10 4

11 On or about September 15, 2014, in the Superior Court of the State of California,
12 County of Merced, Case No. CRM033331, Respondent was convicted of violating Penal Code
13 section 243(e)(1) (battery of a current or former significant other), a misdemeanor which bears a
14 substantial relationship under section 2910 of the Regulations, to the qualifications, functions,
15 or duties of a real estate licensee.

16 5

17 On or about February 1, 2006, in the Superior Court of the State of California,
18 County of Santa Clara, Case No. CC512450, Respondent was convicted of violating Vehicle
19 Code section 23152(b) (driving with a blood alcohol level at or above .08%), a misdemeanor
20 which bears a substantial relationship under section 2910 of the Regulations, to the
21 qualifications, functions, or duties of a real estate licensee.

22 6

23 On or about July 12, 2003, in the Superior Court of the State of California,
24 County of Merced, Case No. MF36372, Respondent was convicted of violating Vehicle Code
25 section 23152 (DUI), a misdemeanor which bears a substantial relationship under section 2910
26 of the Regulations, to the qualifications, functions, or duties of a real estate licensee.

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On or about October 13, 2001, in the Superior Court of the State of California, County of Merced, Case No. 179634, Respondent was convicted of violating Vehicle Code section 23152 (DUI), a misdemeanor which bears a substantial relationship under section 2910 of the Regulations, to the qualifications, functions, or duties of a real estate licensee.

GROUND FOR DENIAL

In failing to reveal the convictions described above in Paragraph 4, 6 and 7, Respondent procured or attempted to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which constitutes grounds under sections 480(d) and 10177(a) of the Business and Professions Code ("the Code") for the denial of Respondent's application for a real estate license.

Respondent's criminal convictions, as described above in Paragraphs 3 through 7, constitute grounds under sections 480(a) and 10177(b) of the Code for the denial of Respondent's application for a real estate license.

WHEREFORE, 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, and for such other and further relief as may be proper under other provisions of law.


 BREND A SMITH
 Supervising Special Investigator

Dated at Fresno, California,
 this 18 day of March, 2016.

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Bureau may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.

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