

1 DEPARTMENT OF REAL ESTATE  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

**FILED**  
MAY 10 2006

DEPARTMENT OF REAL ESTATE

By *K. Contreras*

7 **DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9 *In the Matter of the Application of*

10 BRIAN VINCENT PASSMAN,

11 Respondent.

) NO. H-3327 SD

) **STIPULATION AND WAIVER**

12  
13 I, BRIAN VINCENT PASSMAN, Respondent herein, do hereby affirm that I have applied  
14 to the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I  
15 have satisfied all of the statutory requirements for the issuance of the license, including the payment of the  
16 fee therefor.

17 I acknowledge that I have received and read the Statement of Issues and the Statement to  
18 Respondent filed by the Department of Real Estate on November 23, 2005, in connection with my  
19 application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a  
20 hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness  
21 and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a  
22 restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by  
23 filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to  
24 make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license.  
25 I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate  
26 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the  
27 issuance to me of an unrestricted real estate salesperson license.

1 I hereby admit that the allegations of the Statement of Issues filed against me are true and  
2 correct and request that the Real Estate Commissioner in his discretion issue a restricted real estate  
3 salesperson license to me under the authority of Section 10156.5 of the Business and Professions Code. I  
4 understand that any such restricted license will be issued subject to and be limited by Section 10153.4 of the  
5 Business and Professions Code.

6 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing  
7 and the opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an  
8 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate  
9 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a  
10 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

11 I further understand that the following conditions, limitations, and restrictions will attach to  
12 a restricted license issued by the Department of Real Estate pursuant hereto:

13 1. The license shall not confer any property right in the privileges to be exercised  
14 including the right of renewal, and the Real Estate Commissioner may by appropriate  
15 order suspend the right to exercise any privileges granted under this restricted license  
16 in the event of:

17 a. The conviction of Respondent (including a plea of nolo contendere) to a crime  
18 which bears a substantial relationship to Respondent's fitness or capacity as a  
19 real estate licensee; or

20 b. The receipt of evidence that Respondent has violated provisions of the California  
21 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate  
22 Commissioner, or conditions attaching to this restricted license.

23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor  
24 the removal of any of the conditions, limitations or restrictions attaching to the  
25 restricted license until two years have elapsed from the date of issuance of the  
26 restricted license to Respondent.

27 ///

1 3. With the application for license, or with the application for transfer to a new  
2 employing broker, I shall submit a statement signed by the prospective employing  
3 broker on a form approved by the Department of Real Estate wherein the employing  
4 broker shall certify as follows:

5 a. That broker has read the Statement of Issues which is the basis for the issuance  
6 of the restricted license; and

7 b. That broker will carefully review all transaction documents prepared by the  
8 restricted licensee and otherwise exercise close supervision over the licensee's  
9 performance of acts for which a license is required.

10 4. My restricted real estate salesperson license is issued subject to the requirements of  
11 Section 10153.4 of the Business and Professions Code, to wit: I am required, within  
12 eighteen (18) months of the issuance of the restricted license, to submit evidence  
13 satisfactory to the Commissioner of successful completion, at an accredited  
14 institution, of a course in real estate practices and one of the courses listed in Section  
15 10153.2, other than real estate principles, advanced legal aspects of real estate,  
16 advanced real estate finance, or advanced real estate appraisal. If I fail to timely  
17 present to the Department satisfactory evidence of successful completion of the two  
18 required courses, the restricted license shall be automatically suspended effective  
19 eighteen (18) months after the date of its issuance. Said suspension shall not be lifted  
20 unless, prior to the expiration of the restricted license, I have submitted the required  
21 evidence of course completion and the Commissioner has given written notice to  
22 Respondent of the lifting of the suspension.

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

1                   6.    Respondent shall submit proof to the satisfaction of the Commissioner on a quarterly  
2                   basis of his attendance at a narcotics abuse treatment or recovery program, such as  
3                   Narcotics Anonymous or other formal program, at least once a week during the term  
4                   of the restricted license.

5                   Respondent can signify acceptance and approval of the terms and conditions of this  
6                   Stipulation and Waiver by faxing a copy of the signature page, as actually signed by Respondent, to the  
7                   Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands that by  
8                   electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation  
9                   and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the  
10                  Department had received the original signed Stipulation and Waiver.

11                  2/27/06

12                  Dated

11                  Brian Vincent Passman

12                  BRIAN VINCENT PASSMAN, Respondent

13                  \* \* \*

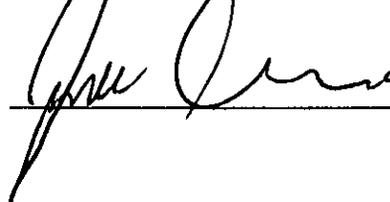
14                  I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver  
15                  signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the  
16                  honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public  
17                  interest to issue a restricted real estate salesperson license to Respondent.

18                  Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be  
19                  issued to Respondent BRIAN VINCENT PASSMAN, if Respondent has otherwise fulfilled all of the  
20                  statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as  
21                  specified in the foregoing Stipulation and Waiver.

22                  This Order is effective immediately.

23                  IT IS SO ORDERED      May 10, 2006

24                                   JEFF DAVI  
25                                   Real Estate Commissioner

26                                   

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FILED  
NOV 23 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 \* \* \*

12 In the Matter of the Application of )  
13 )  
14 BRIAN VINCENT PASSMAN, )  
15 )  
16 Respondent. )

H-3327 SD

STATEMENT OF ISSUES

16 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate  
17 Commissioner of the State of California, for Statement of Issues  
18 against BRIAN VINCENT PASSMAN (hereinafter "Respondent"), is  
19 informed and alleges as follows:

20 I

21 Complainant, J. CHRIS GRAVES, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Statement of  
23 Issues against Respondent in his official capacity.

24 II

25 Respondent made application to the Department of Real  
26 Estate of the State of California for a real estate salesperson  
27 license on or about February 9, 2004.

1 III

2 On or about November 2, 1995, in the Superior Court  
3 of the State of California, County of San Diego, Respondent was  
4 convicted of the crime of Driving With a Suspended License in  
5 violation of Vehicle Code Sections 14601.1(a) and 40508(b), a  
6 misdemeanor and crime involving moral turpitude that bears a  
7 substantial relationship under Section 2910, Title 10,  
8 California Code of Regulations (hereinafter "Regulations"), to  
9 the qualifications, functions, or duties of a real estate  
10 licensee.

11 IV

12 On or about February 18, 2000, in the Superior Court  
13 of the State of California, County of San Diego, Respondent was  
14 convicted of the crime of Driving Under the Influence of Alcohol  
15 and Drugs in violation of Vehicle Code Section 23152(a), a  
16 misdemeanor and crime involving moral turpitude that bears a  
17 substantial relationship under Section 2910 of the Regulations  
18 to the qualifications, functions, or duties of a real estate  
19 licensee. Respondent was also convicted of Unauthorized  
20 Possession of a Dangerous Drug—Ecstasy in violation of Health  
21 and Safety Code Section 11377(a), a felony.

22 V

23 On or about August 30, 2000, in the Superior Court of  
24 the State of California, County of San Diego, Respondent was  
25 convicted of the crime of Driving Without a License in violation  
26 of Vehicle Code Section 14601.2(a), a misdemeanor and crime  
27 involving moral turpitude that bears a substantial relationship

1 under Section 2910 of the Regulations to the qualifications,  
2 functions, or duties of a real estate licensee.

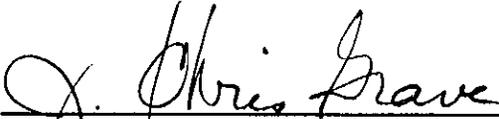
3 VI

4 On or about August 12, 2002, in the Superior Court of  
5 the State of California, County of San Diego, Respondent was  
6 convicted of Possession for Sale of a Dangerous Drug—Ecstasy in  
7 violation of Health and Safety Code Section 11378, and Possession  
8 for Sale of a Controlled Substance—Cocaine or Methamphetamine in  
9 violation of Health and Safety Code Section 11351. Both  
10 convictions were felony convictions.

11 VII

12 The facts alleged above constitute cause under Sections  
13 480 and 10177(b) of the Code for denial of Respondent's license  
14 under the Real Estate Law.

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

21  
22  
23   
24 J. CHRIS GRAVES  
25 Deputy Real Estate Commissioner

26 Dated at San Diego, California  
27 this 13<sup>th</sup> day of October, 2005.