FILED

JUN 0 2 2026

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of:	DRE No. H-3640 FR
GABRIEL PAUL MARTINEZ,	OAH No. 2026020253
Respondent.	

DECISION

The Proposed Decision dated April 23, 2026, 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.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

1. Page 1, Proposed Decision,"Aprill 22, 2026" is correct to "April 22, 2026".
2. Page 2, Paragraph 6, "Penal Code section 1203/4" is corrected to "Penal Code section 1203.4".
3. Page 4, Paragraph 5 Line 3, is corrected to read as follows: "Bureau" to "Department".
4. Page 5, Paragraph 1A, is corrected to read as follows: "Bureau's" to "Department's".
5. Page 6, Paragraphs 6 and 8, is corrected to read as follows: "Bureau" to "Department".
6. Page 7, Paragraph 13, is corrected to read as follows: "Bureau" to "Department".

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The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire thirty (30) days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on JUN 23 2026

IT IS SO ORDERED May 21, 2026

[redacted]

Chika Sunquist
REAL ESTATE COMMISSIONER

FILED

MAY 21 2026

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

GABRIEL PAUL MARTINEZ, Respondent

Agency Case No. H-3640 FR

OAH No. 2026020253

PROPOSED DECISION

H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 22, 2026, via teleconference.

Ruben Coronado (Complainant) was represented by Attorney Kyle T. Jones.

Gabriel Paul Martinez (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on Aprill 22, 2026.

FACTUAL FINDINGS

1. Complainant brought the Statement of Issues in his official capacity as a Supervising Special Investigator of the State of California.

2. On September 19, 2024, Respondent applied to the Department of Real Estate (Department) for a real estate salesperson license. No license has been issued pursuant to the application.

3. On January 28, 2025, in the Superior Court of California, County of San Bernardino, in case number FSB24001982, Respondent pled no contest and was convicted of violating Penal Code section 415, subdivision 2 (disturbing the peace by a loud/unreasonable noise), a misdemeanor and a crime which, by its facts and circumstances, is substantially related to the qualifications, functions, and duties of a real estate licensee.

4. The court placed Respondent on summary probation for one year subject to various terms and conditions including incarceration for four days with credit for four days served and submission to a search of his residence, property, and person.

5. The facts and circumstances underlying the conviction are that, on June 3, 2024, Respondent, accompanied by a friend, drove an unregistered car that did not belong to him, to a Union Pacific Railroad yard and stole new tires from that location. Respondent and his friend were stopped by Union Pacific Police as they attempted to leave the scene. More than 17 tires, valued at over $1,000, were recovered. Respondent cooperated with the authorities at the time of, and after, his arrest. He immediately took full responsibility for his unlawful conduct.

6. Respondent completed his criminal probation in January 2026. He is in the process of seeking a dismissal of his criminal conviction pursuant to Penal Code section 1203/4.

7. Respondent no longer associates with the friend with whom he committed the crime.

8. Respondent has used his criminal experience to grow into a more responsible individual. In Respondent's words:

> I understand the seriousness of being involved in any situation that brings legal scrutiny, regardless of the final outcome. This experience has been a wake-up call and a learning opportunity for me to make better decisions moving forward. I am committed to conducting myself responsibly and professionally, and I respectfully ask that this matter be viewed in its full context.

(Exhibit 5, page A35.)

9. Respondent attends church services twice per week. He resides with his mother and brother with whom he shares good relationships. Respondent has not pursued any educational or training courses since the day he committed the crime. However, he expresses a genuine interest in real estate. (Exhibit 5, page A36.)

10. Respondent holds down three jobs, waiting on and busing tables in a restaurant, operating a mobile detailing business, and performing administrative functions for real estate broker David Hurtado.

11. Mr. Hurtado testified at the administrative hearing that Respondent has changed and grown dramatically since he committed the crime, and he now understands the difference between right and wrong. Respondent recognizes real estate as a "golden ticket" of opportunity. (Mr. Hurtado's term.)

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LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for a real estate salesperson license pursuant to Business and Professions Code sections 480, subdivision (a)(1), and 10177, subdivision (b), for conviction of a crime substantially related to the qualifications, functions, and duties of a real estate licensee, as set forth in Findings 3, 4, and 5.

2. Respondent bore the burden of proof in this case. (*Martin v. Alcoholic Beverage Appeals Board* (1959) 52 Cal.2d 259, 265.) The standard of proof is a preponderance of the evidence. (Evid. Code §115.)

3. Respondent's crimes are substantially related to the qualifications, functions, and duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8).

4. Cause does not exist to deny Respondent's application for a real estate salesperson license pursuant to Business and Professions Code section 10177, subdivision (j), for engagement in conduct that constitutes fraud or dishonest dealing, as set forth in Findings 3, 4, and 5. In this case, although Respondent's conduct constituted a theft, the theft did not involve fraud or dishonesty. (Black's Law Dict. (6th ed. 1990) p.1477, col. 2.)

5. California Code of Regulations, title 10, section 2911, subdivision (a), states:

> The following criteria have been developed and will be considered by the Bureau pursuant to Section 482 of the Business and Professions Code for the purpose of

evaluating whether or not an applicant is rehabilitated for purposes of issuance or for reinstatement of a license:

(1) The time that has elapsed since commission of the acts(s) or offense(s):

(A) The passage of less than two years after the most recent criminal conviction or act of the applicant that is a cause of action in the Bureau's Statement of Issues against the applicant is inadequate to demonstrate rehabilitation.

(B) Notwithstanding subdivision (a)(1)(A), above, the two-year period may be increased based upon consideration of the following:

(i) The nature and severity of the crime(s) and/or act(s) committed by the applicant.

(ii) The applicant's history of criminal convictions and/or license discipline that are "substantially related" to the qualifications, functions, or duties of a real estate licensee. However, no rehabilitation shall be required where the sole proven basis or bases for denial of an application is an expunged conviction as described in Business and Professions Code Section 480(c).

(2) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of

the applicant, or escheat to the State of these monies or other properties if the victim(s) cannot be located.

(3) Expungement of criminal convictions.

(4) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(5) Successful completion or early discharge from probation or parole.

(6) Abstinence from the use of controlled substances and/or alcohol for not less than two years if the conduct which is the basis to deny the Bureau action sought is attributable in part to the use of controlled substances and/or alcohol.

(7) Payment of the fine and/or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.

(8) 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 Bureau action sought.

(9) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.

(10) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

(11) Correction of business practices resulting in injury to others or with the potential to cause such injury.

(12) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(13) 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 Bureau action sought.

(14) Change in attitude from that which existed at the time of the conduct in question as evidenced by the following:

(A) Testimony and/or other evidence of rehabilitation submitted by the applicant.

(B) Evidence from family members, friends and/or other persons familiar with applicant's previous conduct and with his or her subsequent attitudes and/or behavioral patterns.

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

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

(E) Absence of subsequent felony convictions, misdemeanor convictions, or other conduct that provides grounds to discipline a real estate licensee, which reflect an inability to conform to societal rules when considered in light of the conduct in question.

6. Respondent has satisfied most of the Department's applicable criteria for rehabilitation. Specifically,

1. Although less than two years have passed since Respondent committed his criminal act, that date is approximately one month away as of the time of this writing. The crime was an isolated, non-violent one for which Respondent immediately accepted full responsibility.

2. Respondent has completed his criminal probation, and he is seeking a dismissal of the conviction pursuant to Penal Code section 1203.4.

3. The criminal court did not require Respondent to pay fines or restitution.

4. Respondent resides with his mother and brother with whom he shares good relationships.

5. Respondent is active in his church, attending services twice per week.

6. Respondent no longer associates with the individual with whom he committed the crime. Respondent presently works for a real estate broker who testified to Respondent's change in attitude.

7. The evidence did not disclose that Respondent has had any further involvement with the criminal justice system.

8. The law is well-settled that good behavior over the passage of a significant amount of time is a cornerstone of rehabilitation. (*In re Menna* (1995) 11 Cal.4th 975, 991; *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) The temporal recency of Respondent's crime and conviction are troubling. However, Respondent's immediate acceptance of responsibility for his crime, his dramatic change in attitude, and his commitment to a career in real estate are reassuring. Nonetheless, if Respondent is to be granted licensure, the Department must be able to monitor his conduct in order to protect the public safety, welfare, and interest. Accordingly, Respondent shall be granted a properly-conditioned restricted license.

ORDER

Respondent'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 that Code:

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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.

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

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

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(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.

DATE: 04/23/2026

H. Stuart Waxman

H. Stuart Waxman (Apr 23, 2026 14:02:50 PDT)

H. STUART WAXMAN

Administrative Law Judge

Office of Administrative Hearings