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**FILED**

DEC 04 2014

**BUREAU OF REAL ESTATE**

By *Regina Rann*

**BEFORE THE BUREAU OF REAL ESTATE**

**STATE OF CALIFORNIA**

\* \* \*

In the Matter of the Accusation of	)	No. H-04679 SD
	)	
MICHELLE ANN MONTOYA,	)	<u>A C C U S A T I O N</u>
	)	
Respondent.	)	

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MICHELLE ANN MONTOYA, a.k.a. Michelle Nazario Montoya or Michelle Ann Sandoval or Michelle Montora or Michelle Sandoval ("Respondent"), alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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2.

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a real estate salesperson, Bureau of Real Estate ("Bureau" or "BRE") License #01147017.

FIRST CAUSE FOR DISCIPLINE

(CRIMINAL CONVICTION)

3.

On or about April 12, 2013, in the Superior Court of the State of California, County of Riverside, in Case No. SWF1203134, Respondent pled guilty to and was convicted for violation of:

Count One: Vehicle Code Sections 23153(A) (driving under the influence causing injury), a misdemeanor, with an admission to violation of Vehicle Code Sections 23578 (driving with blood alcohol concentration 0.15 percent or greater) and 23572(A)(1) (driving with a minor under age 14 as a passenger);

Count Two: Vehicle Code Section 23153(B) (driving under the influence with blood alcohol 0.08 percent or greater), a misdemeanor with an admission to violation of Vehicle Code Sections 23578j (driving with blood alcohol concentration 0.15 percent or greater) and 23572(A)(1) (driving with a minor under age 14 as a passenger); and

Counts Three through Six: Penal Code Section 237A(A) (willful and unlawful harm to child, likelihood of great bodily injury or death), a misdemeanor

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Respondent was sentenced to 36 months probation; 120 days in jail (work release); and ordered to pay court fines and fees. In addition, Respondent was ordered to surrender her driver's license pursuant to Vehicle Code Section 23556 and to complete a first offender DUI program for three months.

4.

These convictions, by their facts and circumstances, bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

5.

The crimes of which Respondent was convicted constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

#### SECOND CAUSE FOR DISCIPLINE

#### (FAILURE TO REPORT)

6.

Respondent did not report in writing to the Bureau of Real Estate ("Bureau") the convictions described in Paragraph 3, within 30 days of the conviction date (April 12, 2013). Respondent's failure to timely report the convictions constitutes cause for discipline under Business and Professions Code Section 10186.2<sup>1</sup> of the license and license rights of Respondent under the Real Estate Law.

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<sup>1</sup> Pursuant to Business and Professions Code 10186.2: (a)(1) A licensee shall report any of the following to the BUREAU: (A) The bringing of an indictment or information charging a felony against the licensee. (B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor. (c) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government. (2) The report required by this subdivision shall be made in writing

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1 THIRD CAUSE FOR DISCIPLINE

2 (FAILURE TO DISCLOSE)

3 7.

4 In response to Question 4 of her license renewal application, dated August 12, 2014,  
5 to wit: "WITHIN THE SIX-YEAR PERIOD PRIOR TO FILING THIS APPLICATION,  
6 HAVE YOU BEEN CONVICTED OF ANY VIOLATION OF THE LAW? ALL STATE AND  
7 FEDERAL MISDEMEANOR AND FELONY CONVICTIONS, AND ALL MILITARY AND  
8 FOREIGN CONVICTIONS, MUST BE DISCLOSED. CONVICTIONS EXPUNGED  
9 UNDER PENAL CODE SECTION 1203.4 OR A SIMILAR STATUTE MUST STILL BE  
10 DISCLOSED," Respondent answered "No," and did not reveal the convictions described in  
11 Paragraph 3 above.

12 8.

13 In response to Question 10 of her license renewal application, dated August 12,  
14 2014, to wit: "WITHIN THE SIX-YEAR PERIOD PRIOR TO FILING THIS APPLICATION,  
15 HAVE YOU EVER PLED GUILTY TO OR ENTERED A PLEA OF NOLO CONTENDERE  
16 OR A NO CONTEST PLEA TO ANY VIOLATION OF LAW IN A STATE, MILITARY, OR  
17 FEDERAL COURT?" Respondent answered "No," and did not reveal the guilty pleas  
18 described in Paragraph 3 above.

19 9.

20 Respondent's failure to reveal the convictions and guilty pleas set forth herein in  
21 Paragraph 4 and the felony charges pending at the time, as set forth here in Paragraph 3, on her  
22 license renewal application constitutes the attempt to procure a real estate license renewal by

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25 within 30 days of the date of the bringing of the indictment or the charging of a felony, the conviction, or the  
26 disciplinary action. (b) Failure to make a report required by this section shall constitute a cause for discipline.

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1 fraud, misrepresentation, or deceit, or by knowingly making a false statement of material fact  
2 required to be revealed in said, application, which is grounds for denial of the issuance of a  
3 license under California Business and Professions Code Section 10177(a).

4 10.

5 California Business and Professions Code Section 10106 provides, in pertinent  
6 part, that in any order issued in resolution of a disciplinary proceeding before the bureau, the  
7 Commissioner may request the administrative law judge to direct a licensee found to have  
8 committed a violation of this part to pay a sum not to exceed the reasonable costs of  
9 investigation and enforcement of the case.

10 WHEREFORE, Complainant prays that a hearing be conducted on the  
11 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
12 disciplinary action against all the licenses and license rights of Respondent, MICHELLE ANN  
13 MONTOYA, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions  
14 Code) and for such other and further relief as may be proper under other applicable provisions  
15 of law.

16 Dated at San Diego, California

17 this 25<sup>th</sup> day of November, 2014.

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19   
20 Veronica Kilpatrick  
21 Deputy Real Estate Commissioner  
22

23 cc: MICHELLE ANN MONTOYA  
24 Veronica Kilpatrick  
25 Sacto.  
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