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FILED

OCT 06 2021

DEPT. OF REAL ESTATE

By 

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

11 * * *

12 In the Matter of the Application of) No. H-05253 SD
13)
14 RAFAEL FRANCISCO ACOSTA,) STATEMENT OF ISSUES
15)
16 Respondent.)

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
18 State of California, for Statement of Issues against RAFAEL FRANCISCO ACOSTA
19 (“Respondent”) alleges as follows:

20 1.

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, makes this Statement of Issues in her official capacity.

23 2.

24 All references to the “Code” are to the California Business and Professions Code
25 and all references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

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1 3.

2 On or about March 9, 2020, Respondent made application to the Department of
3 Real Estate¹ ("Department") for a real estate salesperson license.

4 CAUSE FOR DISCIPLINE
5 (CRIMINAL CONVICTION)

6 4.

7 January 15, 2013; Penal Code ("PC") Section 211 - Felony

8 a. On or about October 24, 2012, in the Superior Court of California, San Diego
9 County, in Case No. **SCE324784**, The People of the State of California v. Rafael Francisco
10 Acosta, a felony complaint was filed against Respondent for violation of PC Section 211
11 (robbery), a felony.

12 b. On or about January 15, 2013, Respondent pled guilty to and was convicted of
13 violation of PC Section 211 (robbery), a felony.

14 c. Also on or about January 15, 2013, the Court suspended the imposition of
15 sentence and placed Respondent on formal probation for 3 years under certain terms and
16 conditions, including, in part, 365 days jail, payment of restitution in the amount of \$650, and
17 payment of fines and fees.

18 5.

19 August 6, 2003; Vehicle Code ("VC") Section 10851(a) - Felony

20 a. On or about May 2, 2003, in the Superior Court of California, San Diego
21 County, in Case No. **SCE230060**, The People of the State of California v. Rafael Francisco
22 Acosta, a felony complaint was filed against Respondent for violations of (1) PC Section 459
23 (burglary), a felony, and (2) VC Section 10851(a) (unlawful taking of a vehicle), a felony.

24 b. On or about August 6, 2003, Respondent was convicted of violation of VC
25 Section 10851(a) (unlawful taking of a vehicle), a felony.

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27 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

1 c. Also on or about August 6, 2003, the Court suspended the imposition of
2 sentence and placed Respondent on probation (under the supervision of the probation officer)
3 for 3 years under certain terms and conditions, including, in part, 240 days jail, attend and
4 complete a substance abuse counseling program, attend alcoholics/narcotics anonymous,
5 surrender of driver's license, stay away from victims residence, take all prescribed medication,
6 and payment of fines and fees.

7 (AGGRAVATING FACTORS)

8 6.

9 December 10, 2007; Health and Safety Code ("HSC") Section 11377(a) - Misdemeanor

10 a. On or about December 10, 2007, in the Superior Court of California, San
11 Diego County, in Case No. **C276016**, The People of the State of California v. Rafael Francisco
12 Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11377(a)
13 (possession of a controlled substance - methamphetamine), a misdemeanor.

14 b. Also on or about December 10, 2007, the Court suspended the imposition of
15 sentence and placed Respondent on summary probation for 3 years under certain terms and
16 conditions, including, in part, 365 days jail, complete HIV/AIDS education and payment of
17 fines and fees.

18 7.

19 March 19, 2010; HSC Section 11377(a) - Misdemeanor

20 a. On or about March 19, 2010, in the Superior Court of California, San Diego
21 County, in Case No. **SCE299037**, The People of the State of California v. Rafael Francisco
22 Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11377(a)
23 (possession of a controlled substance - methamphetamine), a misdemeanor.

24 b. Also on or about December 10, 2007, the Court suspended the imposition of
25 sentence and placed Respondent on summary probation for 3 years under certain terms and
26 conditions, including, in part, 29 days jail (365 days stayed per completion of probation), and
27 payment of fines and fees.

1 8.

2 May 17, 2010; PC Section 69 - Misdemeanor

3 a. On or about March 29, 2010, in the Superior Court of California, San Diego
4 County, in Case No. SCE3299641, The People of the State of California v. Rafael Francisco
5 Acosta, a felony complaint was filed against Respondent for violation of (1) PC Section 69
6 (resisting executive officer), a felony, and (2) HSC 11550(a) (under the influence of a
7 controlled substance - unknown), a misdemeanor .

8 b. On or about May 17, 2010, Respondent pled guilty to and was convicted of
9 violation of PC Section 69 (resisting executive officer), which was reduced to a misdemeanor.

10 c. Also on or about May 17, 2010, the Court suspended the imposition of
11 sentence and placed Respondent on summary probation for 3 years under certain terms and
12 conditions, including, in part, 108 days jail and payment of fines and fees.

13 d. On or about June 30, 2010, the Court found Respondent to have violated his
14 probation and sentenced Respondent to 365 days jail to run concurrently with cases SCE299037
15 and C276016.

16 9.

17 April 20, 2011; PC Section 148.9(a) - Misdemeanor

18 a. On or about April 20, 2011, in the Superior Court of California, San Diego
19 County, in Case No. C310225, The People of the State of California v. Rafael Francisco
20 Acosta, Respondent pled guilty to and was convicted of violation of PC Section 148.9(a) (give
21 false information to a peace officer), a misdemeanor.

22 b. Also on or about April 20, 2011, the Court suspended the imposition of
23 sentence and placed Respondent on summary probation for 1 year under certain terms and
24 conditions, including, in part, 29 days jail stayed per completion of probation.

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10.

April 20, 2011; HSC Section 11550 - Misdemeanor

a. On or about April 20, 2011, in the Superior Court of California, San Diego County, in Case No. **C308842**, The People of the State of California v. Rafael Francisco Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11550(a) (under the influence of a controlled substance – methamphetamine), a misdemeanor.

b. On or about April 26, 2012, the Court denied probation and sentenced Respondent to 180 days jail to run concurrent with cases C310559, C310813, C309718, C315020, and C311752.

11.

April 20, 2011; HSC Section 11550 - Misdemeanor

a. On or about April 20, 2011, in the Superior Court of California, San Diego County, in Case No. **C309718**, The People of the State of California v. Rafael Francisco Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11550(a) (under the influence of a controlled substance – methamphetamine), a misdemeanor.

b. On or about April 26, 2012, the Court denied probation and sentenced Respondent to 180 days jail to run concurrent with cases C310559, C308842, C310813, C315020, and C311752.

12.

May 9, 2011; HSC Section 11550 - Misdemeanor

a. On or about May 9, 2011, in the Superior Court of California, San Diego County, in Case No. **C310813**, The People of the State of California v. Rafael Francisco Acosta et. al., Respondent pled guilty to and was convicted of violation of HSC Section 11550(a) with 11550(b) enhancement (under the influence of a controlled substance – methamphetamine, with two or more priors), a misdemeanor.

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1 Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11550(a)
2 (under the influence of a controlled substance – methamphetamine), a misdemeanor.

3 b. On or about April 26, 2012, the Court denied probation and sentenced
4 Respondent to 90 days jail to run concurrent with cases C310559, C308842, C309718,
5 C310813, and C311752 as well as payment of fines and fees.

6 16.

7 October 10, 2012; HSC Section 11550 - Misdemeanor

8 a. On or about October 10, 2012, in the Superior Court of California, San Diego
9 County, in Case No. **C323582**, The People of the State of California v. Rafael Francisco

10 Acosta, Respondent pled guilty to and was convicted of violation of HSC Section 11550(a)
11 (under the influence of a controlled substance – methamphetamine), a misdemeanor.

12 b. Also on or about October 10, 2012, the Court suspended the imposition of
13 sentence and placed Respondent on summary probation for 5 years under certain terms and
14 conditions, including, in part, 90 days jail stayed per completion of 180 outpatient rehabilitation
15 program and payment of fines and fees.

16 17.

17 The crimes of which Respondent were convicted, as set forth in Paragraphs 4
18 and 5 above, by their facts and circumstances, bears substantial relationship under Section
19 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or
20 duties of a real estate licensee and constitute cause under **Code Sections 490 and 10177(b)** for
21 the suspension or revocation of the license and license rights of Respondent under the Real
22 Estate Law.

23 18.

24 These proceedings are brought under the provisions of Section 10100, Division
25 4 of the Business and Professions Code of the State of California and Sections 11500 through
26 11528 of the California Government Code.

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1 PRAYER

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

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8 Dated at San Diego, California this 30 day of September, 2021.

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11 _____
12 Veronica Kilpatrick
13 Supervising Special Investigator

14 cc: RAFAEL FRANCISCO ACOSTA
15 Veronica Kilpatrick
16 Sacto.
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