

FILED

MAY 13 2024

DEPT. OF REAL ESTATE

By—

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:) DRE No. H-05357 SD
)
JOSUE GUADALUPE MERCADO,)
)
Respondent.)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on April 23, 2024, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, JOSUE GUADALUPE MERCADO ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses and/or license rights on grounds of conviction of a crime that is substantially related to the qualifications, functions or duties of a real estate licensee.

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") 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 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 Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On February 20, 2024, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to

Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on February 20, 2024.

2.

On April 23, 2024, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

LICENSE HISTORY

3.

Respondent presently 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 broker (License ID 01503622). On February 15, 2023, Respondent's license expired. Pursuant to Code section 10201, Respondent retains renewal rights for two years. The Department of Real Estate holds jurisdiction over the lapsed license, pursuant to Code Section 10103.

a. On or about September 16, 2022, Respondent's real estate broker license was suspended indefinitely, pursuant to Code section 10186.1, due to Respondent being incarcerated after and as a result of a felony conviction for a period of two (2) years.

b. On or about March 2, 2023, the suspension of Respondent's real estate broker license was lifted and terminated upon Respondent's release from incarceration on December 14, 2022.

4.

To date, the Department has incurred investigation costs (\$667.75) and enforcement costs (\$168.00), with a combined total of \$835.75. These costs are payable to the Department upon the filing by Respondent of a petition for reinstatement pursuant to Government Code Section 11522.

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on February 20, 2024, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

The allegation contained in the Accusation constitute cause under Sections 490 and 10177(b) (conviction of a crime substantially related to the qualifications, functions or duties of a real estate licensee) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

2.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent JOSUE GUADALUPE MERCADO under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on June 3, 2024.

DATED: 5/1/2024.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

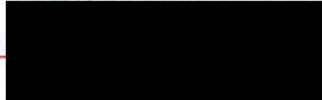
By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

KATHY YI, Counsel (SBN 236736)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Direct: (213) 576-6940
Attorney for Complainant

FILED

February 20, 2024

Department of Real Estate

By, 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-05357 SD
	)	
JOSUE GUADALUPE MERCADO,	)	<u>ACCUSATION</u>
	)	
Respondent.	)	
_____	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against JOSUE GUADALUPE MERCADO, a.k.a. "Jose Guadalupe Mercado" ("Respondent"), alleges as follows:

1.

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

LICENSE HISTORY

2.

Respondent presently 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 broker (License ID 01503622). On February 15, 2023, Respondent's license expired. Pursuant to Code section 10201, Respondent retains renewal rights for two years. The Department of Real

1 Estate holds jurisdiction over the lapsed license, pursuant to Code Section 10103.

2 3.

3 a. On or about September 16, 2022, Respondent's real estate broker license
4 was suspended indefinitely, pursuant to Code section 10186.1, due to Respondent being
5 incarcerated after and as a result of a felony conviction for a period of two (2) years.

6 b. On or about March 2, 2023, the suspension of Respondent's real estate
7 broker license was lifted and terminated upon Respondent's release from incarceration on
8 December 14, 2022.

9 CRIMINAL CONVICTION

10 4.

11 a. On or about March 24, 2022, in the Superior Court of California, County
12 of Imperial, Case No. JCF004227, Respondent was convicted, by a jury, for violating Penal
13 Code section 424(a)(5) (public money misappropriation: willful refusal or failure to disburse,
14 on demand, any public money in his control in response to a draft, order, or warrant), section
15 424(a)(6) (public money misappropriation: willful failure to transfer any public money when
16 required by law), both felonies, and Penal Code section 166(a)(4) (willful and unlawful
17 contempt of court by willful disobedience of a family court order to withhold support
18 payments), a misdemeanor. The court sentenced the Respondent to serve two (2) years in state
19 prison. The court also ordered Respondent to pay fines and fees.

20 b. On or about April 4, 2022, in the Court of Appeal of the State of
21 California, Fourth Appellate District, Case No. D080238, Respondent filed a Notice of Appeal.
22 On or about May 25, 2022, a Record on Appeal was filed.

23 c. On or about February 28, 2023, the Court of Appeal of the State of
24 California, Fourth Appellate District, affirmed, in full, the judgment of the Superior Court of
25 Imperial County.

26 d. On or about May 17, 2023, in the Supreme Court of California, Case No.
27 S279314, Respondent's petition for review was denied.

1 5.

2 The conviction, as described in Paragraph 4 above, bears a substantial
3 relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations
4 ("Regulations") to the qualifications, functions or duties of a real estate licensee.

5 6.

6 The crimes for which Respondent was convicted, as described in Paragraph 4
7 above, constitute cause under Code sections 490 and 10177(b) for the suspension or revocation
8 of the license and license rights of Respondent under the Real Estate Law.

9 COSTS OF INVESTIGATION AND ENFORCEMENT

10 7.

11 California Business and Professions Code section 10106, provides, in pertinent
12 part, that in any order issued in resolution of a disciplinary proceeding before the Department
13 of Real Estate, the Commissioner may request the administrative law judge to direct a licensee
14 found to have committed a violation of this part to pay a sum not to exceed the reasonable costs
15 of the investigation and enforcement of the case.

16 8.

17 These proceedings are brought under the provisions of Section 10100, Division
18 4 of the Business and Professions Code of the State of California and Sections 11500 through
19 11528 of the California Government Code.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all the licenses and license rights of JOSUE GUADALUPE
4 MERCADO under the Real Estate Law, for the costs of investigation and enforcement as
5 permitted by law, and for such other and further relief as may be proper under other applicable
6 provisions of law.

7
8 Dated at San Diego, California, on Feb 20, 2024.

9
10
11 *Veronica Kilpatrick*

12 Veronica Kilpatrick
13 Supervising Special Investigator
14
15

16 cc: JOSUE GUADALUPE MERCADO
17 Veronica Kilpatrick
18 Sacto.
19
20
21
22
23
24
25
26
27