

FILED

SEP 23 2021

DEPARTMENT OF REAL ESTATE

By *J. Taggart*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ASIM QURESHI,

Respondent.

No. H-6967 SAC

OAH No. 2020070373

STIPULATION AND AGREEMENT
AND DECISION AFTER REJECTION

This matter came to hearing before Marcie Larson, Administrative Law Judge, Office of Administrative Hearings, State of California, in Sacramento, California, on October 1, 2020, and May 25, 2021.

Real Estate Counsel Kyle T. Jones represented Complainant, Tricia Parkhurst, in her official capacity as a Supervising Special Investigator with the Department of Real Estate. Respondent ASMI QURESHI was represented by attorney Paul Chan.

Evidence was received, the record was closed, and the matter was submitted for decision on May 25, 2021.

On June 17, 2021, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner ("Commissioner") declined to adopt as his Decision

1 herein. Pursuant to Section 11517 of the Government Code of the State of California,
2 Respondent was served with notice of the Commissioner's determination not to adopt the
3 Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that
4 the case would be decided by the Commissioner upon the record, the transcript of proceedings,
5 and upon written argument offered by Respondent and Complainant.

6 Written argument was submitted by Respondent. Written argument was
7 submitted by Complainant. The parties wish to settle this matter without further proceedings.

8 IT IS HEREBY STIPULATED by and between Respondent and the Complainant,
9 acting by and through Kyle T. Jones, Counsel for the Department, as follows for the purpose of
10 settling and disposing of the Accusation filed by Complainant.

11 1. It is understood by the parties that the Real Estate Commissioner may adopt
12 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalty and
13 sanctions on Respondent's real estate license as set forth in the "Order". In the event the
14 Commissioner in his discretion does not adopt the Stipulation and Agreement, the Stipulation
15 shall be void and of no effect; the Commissioner will review the transcript and the evidence in
16 the case, and will then issue his Decision after Rejection as his Decision in this matter.

17 2. The Order or any subsequent Order of the Commissioner made pursuant to
18 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
19 civil proceedings by the Department with respect to any matters which were not specifically
20 alleged to be cause for accusation in this proceeding.

21 ORDER

22 Respondent's real estate salesperson license and license rights are revoked;
23 provided, however, a restricted real estate salesperson license shall be issued to Respondent
24 pursuant to Section 10156.5 of the Code if Respondent makes application thereof and pays to the
25 Department the appropriate fee for the restricted license within ninety (90) days from the
26 effective date of this Order. The restricted license issued to Respondent shall be subject to all of
27 the provisions of Section 10156.7 of the Code and to the following limitations, conditions, and

1 restrictions imposed under authority of Section 10156.6 of the Code:

2 1. The restricted license issued to Respondent may be suspended prior to
3 hearing by order of the Real Estate Commissioner in the event of Respondent's conviction or
4 plea of nolo contendere to a crime that is substantially related to Respondent's fitness or capacity
5 as a real estate licensee.

6 2. The restricted license issued to Respondent may be suspended prior to
7 hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
8 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
9 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
10 license.

11 3. Respondent shall not be eligible to apply for the issuance of an
12 unrestricted real estate license nor the removal of any of the conditions, limitations, or
13 restrictions attaching to the restricted license until three (3) years have elapsed from the date of
14 issuance of the restricted license to Respondent.

15 4. With the application for license, or with the application for transfer to a
16 new employing broker, Respondent shall submit a statement signed by the prospective employing
17 real estate broker on a form approved by the Department which shall certify as follows:

18 (a) That the employing broker has read the Decision which is the basis
19 for the issuance of the restricted license; and

20 (b) That the employing broker will carefully review all transaction
21 documents prepared by the restricted licensee and otherwise
22 exercise close supervision over the licensee's performance of acts
23 for which a license is required.

24 5. Respondent shall, within nine (9) months from the effective date of this
25 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most
26 recent issuance of an original or renewal real estate license, taken and successfully completed the
27 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal

1 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate
2 license shall automatically be suspended until Respondent presents evidence satisfactory to the
3 Commissioner of having taken and successfully completed the continuing education
4 requirements. Proof of completion of the continuing education courses must be delivered to the
5 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

6 6. Respondent shall notify the Commissioner in writing within
7 seventy-two (72) hours of any arrest by sending a certified letter to the Commissioner at the
8 Department of Real Estate, P.O. Box 137000, Sacramento, CA 95813-7000. The letter shall set
9 forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name
10 and address of the arresting law enforcement agency. Respondent's failure to timely file written
11 notice shall constitute an independent violation of the terms of the restricted license and shall be
12 grounds for the suspension or revocation of that license.

13 7. Respondent shall pay \$725.50 to the Department for the costs of
14 investigation and enforcement of this matter. Respondent's failure to pay the Department shall
15 constitute an independent violation of the terms of the restricted license and shall be grounds for
16 the immediate suspension or revocation of that license. Said payment shall be in the form of a
17 cashier's check or certified check made payable to the Real Estate Fund. Said check must be
18 received by the Department prior to the effective date of the order in this matter at the following
19 address: Department of Real Estate, Post office Box 137007, Sacramento, CA 95813-7007.

20
21 8/11/21
22 DATED

21 
22 KYLE T. JONES, Counsel
23 DEPARTMENT OF REAL ESTATE

24 * * *

25 I have read the Stipulation and Agreement and Decision After Rejection, and its
26 terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily
27 agree to enter into this Stipulation.

1
2 8/5/2021
3 DATED


4 ASIM QURESHI
5 Respondent

6 ***

7 *I have reviewed the Stipulation and Agreement as to form and content and have*
8 *advised my client accordingly.*

9 8/5/21
10 DATED


11 PAUL CHAN
12 Attorney for Respondent,

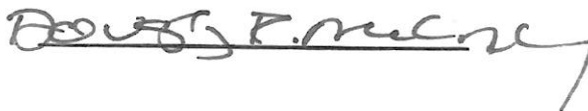
13 DECISION AND ORDER

14 The foregoing Stipulation and Agreement and Decision After Rejection is hereby
15 adopted by the Real Estate Commissioner as his Decision and Order.

16 This Decision and Order shall become effective at 12 o'clock noon on
17 OCT 13 2021

18 IT IS SO ORDERED 9.21.21

19 DOUGLAS R. McCAULEY
20 REAL ESTATE COMMISSIONER

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FILED

JUL 16 2021

DEPARTMENT OF REAL ESTATE
By *J. Taggart*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	DRE No. H-6967 SAC
ASIM QURESHI,)	
)	OAH No. 2020070373
Respondent.)	

NOTICE

TO: ASIM QURESHI, Respondent, and PAUL CHAN, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 17, 2021, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 17, 2021, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on Tuesday, May 25, 2021, and any written argument hereafter submitted on behalf of respondent and complainant.

Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of Tuesday, May 25, 2021, at the Sacramento

///

1 office of the Department of Real Estate unless an extension of the time is granted for good cause
2 shown.

3 Written argument of complainant to be considered by me must be submitted within
4 15 days after receipt of the argument of respondent at the Sacramento Office of the Department of
5 Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: 7.15.21.

7 DOUGLAS R. McCAULEY
8 REAL ESTATE COMMISSIONER

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10 Douglas R. McCauley
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**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ASIM QURESHI, Respondent

Case No. H-6967 SAC

OAH No. 2020070373

PROPOSED DECISION

Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by telephone and videoconference on October 1, 2020, and May 25, 2021, from Sacramento, California

Kyle T. Jones, Counsel, represented complainant Tricia Parkhurst, Supervising Special Investigator of the State of California.

Respondent Asim Qureshi represented himself on the first day of hearing. Paul Chan, Attorney at Law, represented respondent on the second day of hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on May 25, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On or about March 26, 2012, the Department issued respondent restricted real estate salesperson license No. 01912308 (license). Respondent's license expired on July 11, 2020.¹ Respondent also holds an Individual Mortgage Loan Originator License Endorsement.

2. On June 5, 2020, complainant made and thereafter filed, in her official capacity, an Accusation against respondent. Complainant seeks to discipline respondent's license on the grounds that he was convicted of a misdemeanor that is substantially related to the qualifications, functions, or duties of a real estate licensee.

3. Respondent timely filed a Notice of Defense. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Respondent's Criminal Conviction

4. On May 30, 2019 in the Superior Court, County of Placer, respondent was convicted, on his plea of no contest, of corporal injury to a spouse, a violation of Penal Code section 273.5, subdivision (a), a misdemeanor. Respondent was sentenced to 60 days in jail, with the option to apply for work project to complete his jail term.

¹ Respondent explained at hearing that due to the pandemic there was a delay in renewing his license, but that his license has been renewed.

Respondent was placed on three years of informal probation. He was also ordered to complete a 52-week Batterers Program and 20 hours of community service and to pay fines and fees.

5. The circumstances underlying the conviction occurred on October 29, 2018. Respondent and his wife got into an argument. His wife "head-butted" him several times on the forehead. Respondent in-turn hit his wife several times on the back of the head with his open hand. Later that day, respondent's wife complained of a headache and that she was throwing up. Respondent took his wife went to an Urgent Care. She reported the incident to the physician who examined her at the Urgent Care. The physician called the police, who arrived and took the wife's statement. Respondent was waiting in the parking lot for his wife. He was arrested and transported to jail. Respondent informed the police that he did not hit his wife.

Respondent's Evidence

6. At hearing, respondent admitted that he hit his wife. They had an on-going disagreement and were not getting along. She would hit and scratch him. On the day of the incident, while they were fighting, he lost control and hit her several times on the back of the head. After the incident, respondent and his wife lived together for another year before they divorced. They did not engage in any more physical fights. Respondent helped his wife get through school and get a job with his broker. They do not have any children together and do not see each other regularly.

7. Respondent completed the 52-week Batterer's Program. He learned how to handle his anger without becoming physical. He learned various techniques, including breathing exercises, yoga, and taking walks to help manage anger and frustration. Respondent re-married in December 2020. When conflicts arise with his

new wife, respondent's first step is to take a walk, breathe fresh air, and give himself time to "cool down." He will also communicate through text messages which helps him to communicate his feelings without getting angry. Respondent understands now that "being physical" is not the answer to resolving disputes.

8. Respondent completed his jail time through a work program that assigned him to The Salt Mine, a non-profit store that sells furniture to fund a food bank. Respondent completed his community service hours at the Sacramento Area League of Associated Muslims (Salam), where he is an active community member. Respondent has sought informal family counseling with members at Salam.

9. Respondent has worked as a real estate salesperson and loan agent under Soheil "Tony" Dini, Broker and Chief Executive Officer of Real Estate Source, Inc., for over 10 years. Respondent's duties include assisting clients with real estate sales and purchases. He also helps clients obtain loans and refinance existing loans. Mr. Dini wrote a letter of support for respondent explaining that respondent is a good influence on others and has improved his "people skills" in the last few years.

10. Respondent is the sole financial support for his local family. Respondent also supports 20 family members who live in Pakistan. Respondent started a charity in Pakistan that provides free education to almost 400 under privileged children. He has not been able to run the program for the last few years while he has been addressing his conduct that led to his conviction.

11. Respondent submitted several letters of recommendation from friends, clients and colleagues who describe respondent as a professional who has taken his past conduct seriously and made great efforts to ensure that he does not repeat his mistakes.

12. Respondent assures the Department that he will not repeat his conduct. He would like the opportunity to demonstrate that he has learned from his mistakes. Respondent will comply with any terms of probation to retain his license.

Analysis

13. Pursuant to California Code of Regulations, title 10, section 2912, the Department has adopted criteria to determine whether a licensee who has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee is sufficiently rehabilitated such that he is capable of continuing to engage in licensed activities in a manner consistent with public protection, safety, and welfare. (Bus. & Prof. Code, § 482, subd. (b).) The relevant criteria include:

(a) The time that has elapsed since commission of the act(s) or offense(s):

(1) The passage of less than two years after the most recent criminal conviction or act of the licensee that is a cause of action in the Bureau's² Accusation against the licensee is inadequate to demonstrate rehabilitation.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee, or escheat to the State of these monies or other properties if the victim(s) cannot be located.

² From 2013 until 2018, the Department was named the Bureau of Real Estate.

(c) Expungement of the conviction(s) which culminated in the administrative proceeding to take disciplinary action.

[] . . . []

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

[] . . . []

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

[] . . . []

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

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question. . .

14. Respondent has one conviction for corporal injury to his spouse. He initially denied hitting his wife, but ultimately pled no contest to the crime. The events underlying the conviction occurred almost four years ago. Since that time, he has admitted his conduct. He completed a 52-week Batterer's Program. Through the program, he learned tools to manage his anger so that he does not repeat his conduct. He also completed the terms of his sentence. He has less than one year of probation

left to serve. Respondent is active in his community and has a stable, lengthy employment history with the same employer. He is valued by his broker.

15. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (See *Fahmy v. MBC* (1995) 38 Cal.App.4th 810, 817.) Cause exists to discipline respondent's real estate salesperson license based on his conviction. However, the evidence demonstrates respondent is capable of engaging in the duties of a real estate salesperson in a manner that is consistent with public health, safety, and welfare, with a three-year restricted license. The restricted license provides additional oversight by the Department to ensure respondent continues to comply with the Department's statutes and regulations.

Costs of Investigation and Enforcement

16. Pursuant to Business and Professions Code section 10106, the Department may recover reasonable costs of the investigation and enforcement of a case. The Department incurred \$725.50 in total costs of investigation and enforcement of this matter. The costs of investigation and enforcement are supported by declarations that describe the general tasks performed, the time spent on each task, and the method of calculating the costs. As set forth in Legal Conclusion 11, the costs of investigation and enforcement totaling \$725.50 are reasonable.

LEGAL CONCLUSIONS

Burden of Proof

1. Complainant has the burden of proving the grounds for discipline alleged in the Accusation by clear and convincing evidence to a reasonable certainty. (*Realty Projects, Inc. v. Smith* (1973) 32 Cal.App.3d 204, 212.) Clear and convincing evidence is evidence that leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.) If the complainant meets this burden, rehabilitation is akin to an affirmative defense; consequently, the burden of proof of establishing an affirmative defense is on the respondent. (*Whetstone v. Board of Dental Examiners* (1927) 87 Cal.App. 156, 164.)

Applicable Law

2. Pursuant to Business and Professions Code section 490, a professional license may be suspended or revoked if the "licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

3. Pursuant to Business and Professions Code section 10177, subdivision (b), a real estate license may be disciplined when the licensee has "[e]ntered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee."

4. In California Code of Regulations, title 10, section 2910, the Department has set forth criteria for determining whether a conviction is substantially related to

the qualifications, functions, or duties of a licensee. Subdivision (a)(8) of section 2910, subdivision (8) provides that a conviction will be deemed to be substantially related if it involves:

Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

Cause for Discipline

5. As set forth in Factual Findings 4 and 5, respondent was convicted of corporal injury to a spouse, a violation of Penal Code section 273.5, subdivision (a), a misdemeanor, which is substantially related to the qualifications, functions, or duties of a licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) Therefore, respondent's conviction establishes cause to discipline his real estate salesperson license under Business and Professions Code sections 490 and 10177, subdivision (b).

Costs of Enforcement and Investigation

6. The Commissioner may also request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Bus. & Prof. Code, § 10106, subd. (a).) As set forth in Factual Finding 17, the Department established that it incurred \$725.50 in attorney and investigation charges in connection with the enforcement of this case.

7. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth guidelines for determining whether the

costs should be assessed in the particular circumstances of each case. There is no basis to reduce or eliminate the costs in this matter. As set forth in the Order, respondent shall pay the Department \$725.50 for the total cost of investigation and enforcement of this matter.

Conclusion

8. When all of the evidence is considered, complainant established cause to discipline respondent's license. However, respondent produced sufficient evidence of rehabilitation to justify granting him a restricted real estate salesperson license.

ORDER

All licenses and licensing rights of respondent Asim Qureshi under the Real Estate Law are REVOKED; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

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

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension

of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATE: June 17, 2021

Marcie Larson

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings