

BEFORE THE DEPARTMENT OF REAL ESTATE

**FILED**

STATE OF CALIFORNIA

**FEB 17 2026**

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DEPARTMENT OF REAL ESTATE  
By B dew

In the Matter of the Accusation of:	}	DRE No. H-7344 SAC
	}	
ROBERT EARL OSBORNE,	}	OAH No. 2024101012
Respondent.	}	

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DECISION

The Proposed Decision dated November 24, 2025, 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 3, Factual Findings 2, Line 1, is corrected to read as follows:  
"September 26, 2024".
2. Page 16, Order 7, Lines 2-3, are corrected to read as follows:  
"Department of Real Estate, 651 Bannon Street, Suite 504, Sacramento, CA 95811".

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted salesperson license is granted to Respondent.

Pursuant to Government Code Section 11521, the 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 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.

This Decision shall become effective at 12 o'clock noon on MAR 10 2026.

IT IS SO ORDERED 2/13/2026

Chika Sunquist  
REAL ESTATE COMMISSIONER



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By: Marcus L. McCarther  
Chief Deputy Real Estate Commissioner

**BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against:**

**ROBERT EARL OSBORNE, Respondent**

**Agency Case No. H-7344 SAC**

**OAH No. 2024101012**

**PROPOSED DECISION**

Jennevee H. de Guzman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on October 27, 2025, from Sacramento, California.

Megan Lee Olsen, Counsel, represented complainant Heather Nishimura, Supervising Special Investigator, Department of Real Estate (Department).

Mark Axup, Attorney at Law, represented respondent Robert Earl Osborne, who was present.

Evidence was received on October 27, 2025. The record was held open until October 31, 2025, to allow respondent to submit additional evidence and complainant to respond. On October 28, 2025, respondent uploaded a collection of documents at Case Center pages B1-B43, which has been marked as Exhibit A. Pages B1-B2 are a cover sheet and index of respondent's evidence; B3-B6 is an uncertified copy of an

order for dismissal in Placer County Superior Court Case No. 62-182411; B7-B10 is Batterer Intervention Program completion report dated August 9, 2024; B11-B38 are Soberlink testing reports dated June 13, 2023, through July 16, 2025; and B39-B43 are photographs. Respondent also uploaded a character letter from Gary Gallelli dated October 27, 2025, which has been marked as Exhibit B.

On October 31, 2025, complainant filed a written objection to respondent's exhibits, which has been marked as Exhibit 10 and admitted as argument. Complainant had no objections to pages B3-B38 and B44 being admitted as administrative hearsay. Complainant objected to pages B39-B43 on the grounds of relevance and lack of foundation.

Pages B3-B38 of Exhibit A and Exhibit B are admitted as administrative hearsay. The photographs found at pages B39-B43 of Exhibit A are excluded due to lack of foundation. The record was closed and the matter submitted for decision on October 31, 2025.

After the record closed, the Administrative Law Judge discovered confidential information contained in Exhibits 4, 5, 6, and A. Consequently, the Administrative Law Judge, on her own motion, issued a Protective Order for those exhibits.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On October 8, 2003, the Department issued respondent salesperson license number S/01398696. The license will expire on October 15, 2027, unless renewed.

2. On September 20, 2024, complainant, acting solely in her official capacity, filed an Accusation seeking to discipline respondent's license based upon his convictions of crimes substantially related to the qualifications, functions, or duties of a real estate licensee and failure to notify the Department of his convictions.

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.

## **Complainant's Evidence**

### **CRIMINAL CONVICTIONS**

4. On January 18, 2022, in the Superior Court of California, County of Placer, Case No. 62-182411, respondent was convicted, on his no contest plea, of using offensive words likely to provoke an immediate violent reaction on school grounds in violation of Penal Code section 415.5, subdivision (a)(3), a misdemeanor. The court suspended imposition of sentence and placed respondent on probation for three years with conditions requiring him to serve one day in jail and pay fines and fees. On July 29, 2022, the court terminated probation pursuant to Penal Code section 1203.3.

Respondent testified about the circumstances underlying the conviction. He stated he was involved in an altercation with his soon-to-be ex-wife (ex-wife) in 2021. Respondent explained his ex-wife slammed the car door on his hand and broke his finger. He then "pushed the door out," which caused her to fall in the bushes.

5. On June 6, 2023, in the Superior Court of California, County of Placer, Case No. 62-190399, respondent was convicted, on his no contest plea, of battery

against a spouse in violation of Penal Code section 243, subdivision (e)(1), carrying a concealed firearm in a vehicle in violation of Penal Code section 25400, subdivision (a)(1), and possessing a controlled substance in violation of Health and Safety Code section 11350, subdivision (a), all misdemeanors. The court suspended imposition of sentence and placed respondent on probation for three years with conditions requiring him to participate in a substance abuse assessment, submit to drug testing, abstain from alcohol and narcotics, enroll in a batterer's program, complete 60 days of jail time and 20 hours of community service, and pay restitution, fines, and fees.

The circumstances underlying the conviction occurred on February 2, 2023, when Placer County Sheriff's Department deputies contacted respondent's then wife at their family home regarding a domestic incident. A deputy observed respondent's wife had scratch marks on her left forearm and was upset yet evasive and reluctant to provide information.

Additional Sheriff's deputies simultaneously located respondent following a traffic stop. During a search of respondent's vehicle, the deputies recovered a semi-automatic handgun registered to respondent in the glovebox, a loaded magazine for the handgun near the rear seat, and cocaine wrapped in a five-dollar bill in the center console. Respondent explained he had argued with his ex-wife and she hit him. He then retrieved his gun from his nightstand and left. Respondent stated the cocaine belonged to his then wife and he had not used drugs in two years. He admitted he had been previously arrested for domestic violence, but the charge was dropped. A Sheriff's deputy observed respondent had an 8-inch scratch on his chest and a baseball-sized purple bruise on the inside of his right upper arm. Respondent did not explain how he obtained the injuries.

## **FAILURE TO DISCLOSE**

6. On October 16, 2023, respondent signed and thereafter submitted a salesperson renewal application to the Department. Under the "Background Information" section, respondent indicated he had been convicted of misdemeanor battery, carrying a concealed weapon in his vehicle, and possessing a controlled substance in Placer County Superior Court Case No. 62-190399. The Department has no other record or written notice from respondent regarding his convictions.

## **RESPONDENT'S CONVICTION PLED FOR DISCIPLINARY CONSIDERATION**

7. On September 3, 2008, in the Superior Court of California, County of Placer, Case No. 62-83513, respondent was convicted, on his no contest plea, of misdemeanor driving while under the influence of alcohol (DUI) in violation of Vehicle Code section 23152, subdivision (a). Respondent admitted his blood alcohol content (BAC) was 0.15 percent or higher within the meaning of Vehicle Code section 23578. The court suspended imposition of sentence and placed respondent on probation for three years with conditions requiring him to enroll in a three-month first offender program, submit to drug, narcotic, and alcohol testing, serve 10 days in jail, and pay fines and fees. Evidence regarding the circumstances underlying the convictions was not presented.

## **Respondent's Evidence**

### **RESPONDENT'S TESTIMONY**

8. Respondent testified on his own behalf. Respondent is 48 years old and has over 20 years of experience in commercial real estate. He explained he has worked hard to build his business and developed good relationships with people who are

supportive of and rely on him. Respondent has worked at Gallelli Real Estate since 2021, and facilitates sales of commercial real estate properties. He admitted he failed to disclose his 2022 conviction to the Department and explained his failure was a "mistake on [his] part." Respondent wishes to continue working in real estate and stated he is willing to "abide by anything the [Department] imposes."

9. Respondent explained he is currently in the midst of a highly contentious divorce. He has three children, ages 9, 12, and 17, with his ex-wife. Respondent's children live with their mother, and he makes monthly child support payments. Respondent sees his children weekly. Respondent also has a nine-month-old baby with his fiancée, and they live together.

10. Respondent accepted responsibility for his behavior underlying his 2023 convictions but explained his ex-wife was "highly intoxicated" at the time and was the initial aggressor. He explained she pushed him, he pushed her back, took his gun, and quickly left the house to "get out of the situation." Respondent stated he did not cause the scratch marks on her arm. He further explained he was unaware the cocaine was in his car. Respondent stated his ex-wife had previously driven his car to a party, and the cocaine belonged to her.

11. Respondent explained the court had initially placed him on formal probation but has since placed him on informal probation until June 2026. He has completed the community service hours and batterer's program and paid all fines and fees. From the batterer's program, respondent learned he has issues with emotional abuse and how to address this behavior. He stated he continues to address this issue.

12. Respondent stated he has been sober for the last two and one-half years. He explained he is now a "completely different person" and "on a different path." Since

2023, respondent is required to test for drugs and alcohol through Soberlink prior to each visit with his older children. Respondent stated he has tested approximately 600 times and never had a positive result. He explained he "works diligently to be part of [his] children's lives." Prior to being placed on informal probation, respondent was initially subject to random testing as part of his criminal probation and was tested by his probation officer approximately 24 times.

13. Respondent admitted he recently had an incident with his ex-wife that could constitute a probation violation. In February 2025, respondent sent a text message to his ex-wife because she had contacted Child Protective Services (CPS) shortly after the birth of his baby. Respondent stated CPS consequently visited his home 10 days after the birth. His text message stated, "whoever did this will have to deal with [his] fiancée." His ex-wife did not respond until June 2025, when respondent was in Mexico for his engagement. Respondent stated the "District Attorney won't pursue [the] violation."

14. Respondent also discussed his rehabilitation efforts separate from those that are required of him. He has voluntarily and regularly attended Alcoholics Anonymous (AA) for the last two and one-half years and currently attends once a week. Respondent has worked the 12 steps. He has a sponsor, and they talk three or four times per month. Respondent stated he also voluntarily attends drug and alcohol counseling every other week, which he will continue to do for the foreseeable future. He further stated he and his fiancée also attend counseling together. Respondent explained he plans to attend individual counseling to address other personal issues once he can afford to do so.

## **DOCUMENTARY EVIDENCE**

15. Respondent provided an uncertified copy of an order dated July 14, 2022, dismissing his conviction for misdemeanor using offensive words likely to provoke an immediate violent reaction on school grounds and two Soberlink reports reflecting a total of 731 compliant tests and one non-compliant test taken between June 13, 2023, and July 14, 2025.

Respondent also provided an unauthenticated Batterer Intervention Program completion report dated August 9, 2024. The report included the following comment:

[Respondent] has consistently demonstrated a remarkable level of self-awareness regarding the habits necessary for a healthy lifestyle. He actively engages with the community on a weekly basis, showcasing his commitment to personal growth and positive change. He is also attentive and not afraid to express week-to-week behavior issues he may have and is open to feedback, making him an even greater asset to the class as a senior advocate. We are incredibly excited for the positive changes we have witnessed in him over time. [¶] Furthermore, [respondent's] openness to feedback highlights his willingness to learn and adapt. His understanding of abuse and its impact on children and others is a testament to his empathy and commitment to creating a safer environment for everyone.

In addition, respondent provided a letter of support dated October 27, 2025, from Gary Gallelli. Mr. Gallelli is the managing partner at Gallelli Real Estate and

worked with respondent for several years. He explained respondent holds a position of leadership and is an "integral part of [his] firm." Mr. Gallelli further wrote respondent is a top producer and has consistently demonstrated a strong work ethic and "high standard of integrity." Mr. Gallelli requested that respondent be allowed to retain his license. Mr. Gallelli did not indicate whether he had knowledge of respondent's criminal convictions.

## **Analysis**

16. To determine the appropriate level of discipline, the Department evaluates a respondent's rehabilitation. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) In making this evaluation, the Department shall consider the following relevant rehabilitation criteria: the time that has elapsed since commission of the acts; early discharge from probation; abstinence from the use of controlled substances and/or alcohol for not less than two years; payment of any fine imposed in connection with the criminal conviction; new and different social relationships from those which existed at the time of the commission of the acts that led to the criminal convictions; stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction; and a change in attitude from that which existed at the time of the conduct in question. (Cal. Code Regs., tit. 10, § 2912, subs. (a), (e)-(g), (i)-(j), & (m).)

17. Applying those criteria, respondent has demonstrated sufficient rehabilitation from his convictions. Just over two years have elapsed since respondent's acts. Respondent credibly testified the court terminated his 2022 probation early, and he has paid all fines related to his 2023 convictions. He took responsibility for his actions and candidly disclosed the recent text message incident involving his ex-wife. Respondent has demonstrated his commitment to his older

children. He now has a new relationship and baby, and his fiancée supports the relationship by attending therapy with respondent.

Respondent also credibly testified he has been sober for the last two and one-half years. Although respondent's sobriety was caused in part by his child visitation testing requirement and conditions of criminal probation, he offered persuasive evidence of his rehabilitation efforts that are beyond what is presently required of him. These efforts include regular participation at AA meetings, drug and alcohol counseling, and communication with his AA sponsor for the last two and one-half years. Respondent testified with sincerity about his insight regarding his former habits and commitment to living a sober life. His demeanor and testimony were consistent with the comments contained in the Batterers Intervention Program completion report describing his commitment to personal growth and positive change. Overall, respondent credibly testified he is a changed person.

When all the evidence is considered, the appropriate discipline is to revoke respondent's license but allow him to seek a restricted license. Respondent provided evidence of rehabilitation such that completely revoking his license would be unduly punitive. Rather, allowing respondent to practice under a restricted license for three years, subject to terms and conditions, appropriately balances respondent's evidence of rehabilitation with the Department's mandate to protect the public.

## **Costs**

18. Under Business and Professions Code section 10106, subdivision (a), the Department may seek to recover reasonable costs of the investigation and enforcement of a case. Complainant submitted a Certified Statement of Investigation Costs of \$867.25 for 10.75 hours of investigation time, as well as a printout detailing

the investigative tasks performed and the time spent on those tasks. Complainant also submitted a Certified Statement of Enforcement Costs, which indicates Ms. Olsen incurred \$1,248 in costs for 9.5 hours of time enforcing this matter. Respondent did not object to the reasonableness of complainant's request for costs. Cost recovery is addressed in the Legal Conclusions below.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. Complainant has the burden to prove the matters alleged in the Accusation by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In re Michael G.* (1998) 63 Cal.App.4th 700, 709, fn. 6.) In a disciplinary action such as this, respondent must prove rehabilitation. (*Whetstone v. Bd. of Dental Exam'rs* (1927) 87 Cal.App. 156, 164; Evid. Code, § 500.) The standard of proof is a preponderance of the evidence (Evid. Code, § 115), which means "more likely than not." (*Sandoval v. Bank of America* (2002) 94 Cal.App.4th 1378, 1388.)

### **Causes for Discipline**

2. The Real Estate Commissioner may discipline a professional license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee. (Bus. & Prof. Code, §§ 490 & 10177, subd. (b).) When determining whether an offense is substantially related to the qualifications,

functions, or duties of a real estate licensee, the following factors shall be taken into consideration: the nature and gravity of the offense; the number of years that have elapsed since the date of the offense; and the nature and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (c).)

3. Respondent was convicted of using offensive words likely to provoke an immediate violent reaction on school grounds, battery against a spouse, carrying a concealed firearm in a vehicle, and possessing a controlled substance. Real estate licensees regularly spend time alone with their clients previewing homes, property, and neighborhoods. Respondent's crimes demonstrate a disregard for the safety and welfare of others and inability to follow the law. Respondent's convictions are therefore substantially related to the qualifications, functions, and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (c).) Cause therefore exists to discipline respondent's license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), jointly and severally.

4. The Commissioner may discipline a professional license if the licensee has "[w]illfully disregarded the [Real Estate laws] . . . ." (Bus. & Prof. Code, § 10177, subd. (d).) "Willfully," as defined in Business and Professions Code section 10177, subdivision (d), "is most appropriately defined here as 'done deliberately: not accidental or without purpose.'" (*Apollo Estates, Inc. v. Dept. of Real Estate* (1985) 174 Cal.App.3d 625, 639.) This statute "does not require an intent to violate the law, only an intent to engage in the act or conduct prohibited by the statute is required." (*Milner v. Fox* (1980) 102 Cal.App.3d 567, 573, fn. 9.) A real estate licensee who has been convicted of a misdemeanor shall report such conviction to the Department in writing within 30 days. (Bus & Prof. Code, § 10186.2, subds. (a)(1)(B), (a)(2).) As set forth in paragraphs 6 and 8 of the Factual Findings, respondent willfully failed to timely

report his misdemeanor convictions to the Department. Cause therefore exists to discipline respondent's license pursuant to Business and Professions Code sections 10177, subdivision (d), and 10186.2, subdivisions (a)(1)(B) and (a)(2).

### **Appropriate Level of Discipline**

5. The purpose of an administrative action is not to punish a licensee for his misconduct, but rather to ensure he does not exercise his license privileges contrary to the public interest. (*Camacho v. Youde* (1979) 95 Cal. App. 3d 161, 164.) As set forth in paragraphs 16 and 17 of the Factual Findings, allowing respondent to practice under a restricted license for three years, subject to terms and conditions, appropriately balances his evidence of rehabilitation with the Department's mandate to protect the public. (*Resner v. State Bar of California* (1967) 67 Cal.2d. 799, 811 [law favors rehabilitation]; Bus. & Prof. Code, §10050.1 ["Protection of the public shall be the highest priority for the Department of Real Estate in exercising its licensing, regulatory, and disciplinary functions."].)

### **Costs**

6. The Department may request that a licensee found to have committed violations of the Real Estate Law be ordered to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. (Bus. & Prof. Code, § 10106, subd. (a).) In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth guidelines to determine whether the costs should be assessed in the circumstances of each case. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his position, whether the licensee has raised a colorable challenge to the proposed discipline, the

financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct.

7. Complainant requested \$2,115.25 in investigation and enforcement costs. Respondent was unsuccessful in getting the charges dismissed or reduced. He also failed to present a colorable challenge to the proposed discipline. The proposed costs of \$2,115.25 are reasonable given the scope of the investigation, which was appropriate to the alleged misconduct. Considering the factors set forth in *Zuckerman*, complainant's request for costs is reasonable. Therefore, respondent shall reimburse the Department its costs of \$2,115.25 as set forth in the order below.

## **ORDER**

All licenses and licensing rights of respondent Robert Earl Osborne 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 Bureau 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

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

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8. Respondent shall pay \$2,115.25 to the Department of Real Estate, as its reasonable investigation and enforcement costs pursuant to Business and Professions Code section 10106, on terms acceptable to the Department.

DATE: November 24, 2025

Jennevee H. De Guzman  
Jennevee H. de Guzman (Nov 24, 2025 16:22:36 PST)

JENNEVEE H. DE GUZMAN

Administrative Law Judge

Office of Administrative Hearing