

FILED
AUG 19 2025
DEPARTMENT OF REAL ESTATE
By J. Saggart

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	DRE Case No. H-7384 SAC
)	OAH Case No. 2024100275
WILLIE E. WILCOX,)	
)	
Respondent.)	

DECISION AFTER REJECTION

This matter came on for hearing before Wilbert E. Bennett, Administrative Law Judge (hereinafter "ALJ"), Office of Administrative Hearings, State of California, in Sacramento, California, on January 28, 2025.

Taylor Herrlinger, Counsel, represented the Complainant, Heather Nishimura, in her official capacity as a Supervising Special Investigator for the Department of Real Estate (hereinafter "Department").

WILLIE E. WILCOX (hereinafter "Respondent") was present and appeared without counsel.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on January 28, 2025.

On February 27, 2025, the ALJ issued a Proposed Decision (hereinafter "the Proposed Decision") which revoked Respondent's real estate license; provided, however a

1 restricted real estate salesperson license be issued to Respondent pursuant to Section 10156.5 of
2 the Business and Professions Code (hereinafter "the Code"). The Real Estate Commissioner
3 declined to adopt the Proposed Decision.

4 Pursuant to Section 11517 (c) of the Government Code of the State of California,
5 Respondent was served with notice of the Real Estate Commissioner's determination not to
6 adopt the Proposed Decision of the ALJ along with a copy of said Proposed Decision.
7 Respondent was notified that the case would be decided by the Real Estate Commissioner upon
8 the record, the transcript of proceedings held on January 28, 2025, and upon written argument
9 offered by Respondent and Complainant.

10 Respondent did not submit written argument. Complainant submitted written
11 argument on August 5, 2025.

12 I have given careful consideration to the record in this case, including the
13 transcript of proceedings of January 28, 2025. I have also considered the written argument
14 offered by Complainant. The following shall constitute the Decision of the Real Estate
15 Commissioner (hereinafter "Commissioner") in this proceeding:

16 **FACTUAL FINDINGS**

17 The Factual Findings of the Proposed Decision are adopted as part of this
18 Decision, with the exception of the following:

19 Paragraph No. 7 of the Proposed Decision is amended as follows:

20 "7. Respondent presented character witness testimony from four persons who
21 know him in a professional and/or personal capacity: Veronica Nelson-King; Anthony
22 Maddalon; Antoinette Payne; and Troy Dotson. The former three persons also authored
23 supporting letters. Each witness stated that the offense for which Respondent was convicted,
24 involved sexual touching of an underage female, was "out of character." None of Respondent's
25 character witnesses provided any insight into Respondent's efforts at rehabilitation.

26 Veronica Nelson-King, a real estate agent with Royal Real Estate in the
27 Sacramento area, has known Respondent for approximately 22 years. She knows him

1 professionally from working with him on transactions in which she was the realtor and he was
2 the mortgage loan officer. She described him as "always professional and diligent" in making
3 sure that the client understands the loan. She knows him personally as an "excellent father" and
4 "excellent friend to [her] children," with whom she participated in joint family events when they
5 both had pre-teen children. In her supporting letter, Ms. Nelson-King wrote that Respondent "has
6 consistently demonstrated exceptional professionalism, expertise, and a genuine passion for
7 assisting borrowers, buyers, and sellers in achieving their financial goals and securing homes for
8 their families."

9 Antoninette Payne, a real estate agent at Dolores Johnson Brokerage in Oakland,
10 has known Respondent for 53 years, since elementary school. She knows him professionally by
11 working with him on mortgage loans and real estate transactions. She stated that Respondent
12 "has a wealth of real estate knowledge and is a churchgoing person." In her supporting letter, she
13 noted that Respondent "is well-respected by myself and my colleagues" and that she has never
14 received a complaint from anyone regarding Respondent during all the years that she has known
15 him. She also wrote that Respondent has always displayed "a professional, honest manner when
16 dealing with [her] clients."

17 Anthony Maddalon has known Respondent since June 2019. He is the
18 broker/owner of United Lending Partners Inc., which was established in May 2008. His company
19 conducts and originates mortgage loans as well as real estate transactions, and employs 70
20 licensed agents and broker associates under its corporate license. His company employs
21 Respondent in a dual capacity, as a mortgage loan officer, and as a real estate salesperson. In his
22 testimony, Mr. Maddalon characterized Respondent as "always professional and cordial." He
23 also noted that he had never received a complaint from anyone associated with Respondent
24 during the five and a half years of Respondent's employment with his company.

25 Troy Dotson has known Respondent since 1997. He is a member of the same
26 church, and knows Respondent through church and social interactions. He noted that Respondent
27 has served in various church leadership roles, and is a highly regarded and trusted member of the

1 congregation. He currently serves with Respondent on the church trustee board. Mr. Dotson
2 stated that although Respondent's criminal offense was "shocking" and "out of character" it does
3 not alter his high regard for Respondent."

4 Paragraph No. 9 of the Proposed Decision is amended as follows:

5 "9. The Department has adopted criteria to be considered in evaluating whether a
6 licensee who has been convicted of crimes is rehabilitated. The relevant rehabilitation criteria
7 include: (1) the time that has elapsed since the commission of the acts or offenses; (2)
8 expungement of the criminal conviction; (3) successful completion or early discharge from
9 probation; (4) payment of any fine or other monetary penalty imposed in connection with the
10 criminal conviction; (5) stability of family life and fulfillment of parental and familial
11 responsibilities subsequent to the criminal conviction; (6) significant and conscientious
12 involvement in community, church or privately-sponsored programs designed to provide social
13 benefits or to ameliorate social problems; and (7) change in attitude from that which existed at
14 the time of the commission of the criminal acts, as evidenced by the testimony and other
15 evidence of rehabilitation submitted by the licensee or by the absence of subsequent convictions
16 or disciplinable conduct that reflect an inability to conform to societal rules in light of the
17 conduct in question. (Cal. Code Regs. tit. 10, §2912.) All of the relevant criteria have been
18 considered and applied in this case."

19 Paragraph No. 10 of the Proposed Decision is amended as follows:

20 "10. Respondent has satisfied the terms of his conviction. Respondent completed
21 a one-year probation in May 2024, which included payment of a \$220 fine. However, any actions
22 or efforts by Respondent to rehabilitate himself while serving a criminal sentence has little
23 weight. It is well established that rehabilitative efforts when a person is on criminal probation are
24 accorded less weight, '[s]ince persons under the direct supervision of correctional authorities are
25 required to behave in exemplary fashion" (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)"

26 Respondent has been significantly involved in church and community outreach
27 that provide social benefits. However, Respondent's involvement in church and community

1 outreach predates Respondent's conviction and therefore cannot independently demonstrate
2 rehabilitation from his crime.

3 Respondent expressed remorse and acknowledged wrongdoing for his criminal
4 offense, which he regards as reprehensible. It has been judicially recognized, however, that mere
5 remorse is insufficient to establish full rehabilitation, which requires acknowledgment of
6 wrongdoing and sustained exemplary conduct over an extended period of time. (*In re Menna*
7 (1995) 11 Cal.4th 975, 991.)

8 Notwithstanding Respondent's rehabilitative efforts, Respondent has not obtained
9 the expungement of his conviction which is the basis for discipline of his real estate license.
10 Respondent provided no evidence of stability of family life and fulfillment of parental and
11 familiar responsibilities subsequent to his conviction."

12 Paragraph No. 11 of the Proposed Decision is amended as follows:

13 "11. In considering Respondent's rehabilitation from his criminal offense, the
14 nature and recency of that offense are concerning because the duties and qualifications of a real
15 estate licensee involve matters other than technical knowledge, or honesty or truthfulness
16 (*Robbins v. Davi* (2009) 175 Cal.App.4th 118, 125-126.) Penal Code section 245, subdivision
17 (a)(4), to which Respondent entered a guilty plea, makes it a crime to assault someone using such
18 force that it is likely to cause the victim to suffer a great bodily injury. Regardless of the various
19 motives which may have impelled such a plea, the conviction stands as conclusive evidence of
20 guilty of the offense charged. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) Respondent's offense
21 under the factual circumstances presented, involved a nonconsensual touching of an intimate part
22 of the underage victim's body. His conviction occurred less than two years ago. The
23 Department's rehabilitation criteria provides that passage of less than two years after the most
24 recent criminal conviction is inadequate to demonstrate rehabilitation. (Cal. Code Regs., tit. 10,
25 Section 2912 (a)(1).) Furthermore, the two-year period may be increased based on the nature and
26 severity of the crime and the licensee's criminal history. (Cal. Code Regs., tit. 10, Section 2912
27 (a)(1)(2).) Respondent's conviction involved serious misconduct. Based on the nature and

1 severity of Respondent's conviction, more time is needed to adequately assess Respondent's
2 rehabilitation."

3 Paragraph No. 12 of the Proposed Decision is amended as follows:

4 "12. The application of the Department's rehabilitation criteria indicates that
5 Respondent has not shown sufficient rehabilitation to warrant allowing Respondent to remain
6 licensed as a salesperson, even on a restricted basis. A showing of full rehabilitation requires
7 sustained exemplary conduct over an extended period. (*In re Menna* (1995) 11 Cal.4th 975, 991.)
8 In assessing Respondent's rehabilitation, it is apparent that insufficient time has passed for him
9 to establish adequate rehabilitation."

10 Paragraph No. 13 of the Proposed Decision is amended as follows:

11 "13. As discussed in the Legal Conclusions below, cause exists to discipline
12 Respondent's license based on his conviction for assault by means likely to produce great bodily
13 injury. When the relevant criteria are considered, there was not sufficient evidence of
14 rehabilitation to demonstrate that it would be consistent with the public interest, safety and
15 welfare to allow Respondent to hold a real estate salesperson license at this time.
16 Therefore, Respondent's license should be revoked as specified in the Order below, to assure
17 adequate public protection."

18 **LEGAL CONCLUSIONS**

19 The Legal Conclusions of the Proposed Decision are adopted as part of this
20 Decision, with the exception of the following:

21 Paragraph No. 5 of the Proposed Decision is amended as follows:

22 "5. Based on the Factual Findings and Legal Conclusions as a whole, it would not
23 be consistent with the public interest, safety and welfare to allow Respondent to retain licensure,
24 even on a restricted basis. More time is needed for Respondent to establish rehabilitation
25 sufficient to establish that he is fit to hold a real estate salesperson license. The public is
26 protected by revoking Respondent's salesperson license."

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All licenses and licensing rights of Respondent WILLIE E. WILCOX under the law are revoked.

This Decision shall become effective at 12 o'clock noon on SEP 08 2025.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER

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APR 23 2025

DEPARTMENT OF REAL ESTATE
By J. Leggart

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-7384 SAC
)	
WILLIE E WILCOX,)	OAH No. 2024100275
)	
Respondent.)	

NOTICE

TO: WILLIE E WILCOX, Respondent, and JAKE REINHARDT, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision, herein dated February 27, 2025, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 27, 2025, 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, which may include the transcript of the proceedings held on Tuesday, January 28, 2025, 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, January 28, 2025, at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for

1 good cause shown.

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

5 DATED: 4/21/2025.

6 CHIKA SUNQUIST
7 REAL ESTATE COMMISSIONER

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10 By: Marcus L. McCarther
11 Chief Deputy Real Estate Commissioner
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**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**



In the Matter of the Accusation Against:

WILLIE E. WILCOX, Respondent

Case No. H-7384 SAC

OAH No. 2024100275

PROPOSED DECISION

Wilbert E. Bennett, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on January 28, 2025, by videoconference.

Taylor Herrlinger, Real Estate Counsel, represented Heather Nishimura (complainant), Supervising Special Investigator, Department of Real Estate (Department).

Willie E. Wilcox (respondent) represented himself at the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on January 28, 2025.

FACTUAL FINDINGS

Jurisdictional Matters

1. Respondent is presently licensed and/or has licensing rights under the real estate law as a real estate salesperson under License No. 01396837 (license). Respondent was issued this license on September 18, 2003. The license will expire on August 24, 2028, unless renewed or revoked.

2. On September 16, 2024, complainant, acting in her official capacity, filed an accusation against respondent. The accusation alleged cause for discipline of respondent's license based on his misdemeanor conviction for assault by means likely to produce great bodily injury. Respondent timely filed a Notice of Defense, and this hearing followed.

Criminal Conviction

3. On May 17, 2023, in the Superior Court of California, County of Alameda, Case No. 22-CR-009629, respondent was convicted, by guilty plea, of violating Penal Code section 245, subdivision (a)(4) (assault by means likely to produce great bodily injury), a misdemeanor. Respondent's plea to misdemeanor assault by means likely to produce great bodily injury was a negotiated plea, as a lesser included/reasonably related offense, to a felony charge of a lewd act upon a child in violation of Penal Code section 288, subdivision (c)(1). Pursuant to this conviction, respondent was placed on summary probation for one year on certain terms and conditions, including service of one day in the county jail with a credit of one day for time served, an order to stay at least 100 yards away from the victim, a prohibition against the use or possession of weapons, and payment of a \$220 fine.

4. The facts and circumstances underlying this conviction involved an incident that occurred on July 8, 2022. On that occasion, respondent engaged in a conversation with a 15-year-old female performing yoga exercises at a public park in Berkeley, California. The female, clad in "short shorts," was lying on a blanket. During the conversation, respondent positioned himself on the blanket and engaged in physical contact with the female, which included rubbing her feet, legs, and upper thighs, placing his hand inside her shorts, and touching her vagina. Respondent stopped physical contact after the victim interposed objection to the latter touching, and left the scene after hugging her. He left his business card in the victim's backpack. Thereafter, the victim's mother called respondent, informed him of the age of the victim, and reported the incident to local police, who subsequently located and interrogated respondent.

Matters in Aggravation

5. Complainant alleged the following matters in aggravation:

On or about December 8, 2009, in the United States District Court, Northern District of California, Case No. CR-09-00789-001 WDB, respondent was convicted of violating Title 18, Section 1905 (disclosure of confidential information), a misdemeanor. Effective July 29, 2016, the Insurance Commissioner denied respondent's application for an insurance license, and issued him a restricted license for three years, based on this conviction.

The facts and circumstances underlying the conviction involved respondent's work as a revenue agent with the Internal Revenue Service (IRS). In this capacity,

respondent had access to confidential information about individuals owing back taxes. The confidential information that respondent disclosed, and for which respondent was prosecuted, was a taxpayer's name. In 2006, respondent referred a delinquent taxpayer to his girlfriend, who was a real estate agent in the same real estate office where respondent worked. Respondent's girlfriend ultimately sold the taxpayer's property for its fair market value, and the proceeds were applied to the taxpayer's back taxes bill. Respondent was charged with and pled guilty to disclosing confidential taxpayer information – the taxpayer's name – by virtue of making the referral. Respondent successfully completed his two-year probation in 2011.

Respondent's Evidence

6. Respondent is 65 years old, divorced since 2009, with children ranging in age from 36 to 39 years of age. He has been licensed as a real estate salesperson since 2003, without any license discipline. He has been employed, since December 2018, as a mortgage loan officer and real estate salesperson by United Landing Partners in Pleasanton, California. He successfully completed his criminal probation in May 2024.

Respondent is a longstanding member of the First African Methodist Episcopal Church, located in Oakland. During his over 25-year membership in the church, he has served in leadership roles as a member of the Finance Committee and of the Board of Trustees. He has participated on a regular basis in the church's food ministry, which provides provisions to the unhoused in the Oakland community. He has also participated in the church's quarterly "season of giving" program, which provides hygiene supplies, clothing, and other items to members of the community who are in need.

7. Respondent presented character witness testimony from four persons who know him in a professional and/or personal capacity: Veronica Nelson-King; Anthony Maddalon; Antoinette Payne; and Troy Dotson. The former three persons also authored supporting letters. Each witness stated that the offense for which respondent was convicted, involving sexual touching of an underage female, was "out of character."

Veronica Nelson-King, a real estate agent with Royal Real Estate in the Sacramento area, has known respondent for approximately 22 years. She knows him professionally from working with him on transactions in which she was the realtor and he was the mortgage loan officer. She described him as "always professional and diligent" in making sure that the client understands the loan. She knows him personally as an "excellent father" and "excellent friend to [her] children," with whom she participated in joint family events when they both had pre-teen children. In her supporting letter, Ms. Nelson-King wrote that respondent "has consistently demonstrated exceptional professionalism, expertise, and a genuine passion for assisting borrowers, buyers, and sellers in achieving their financial goals and securing homes for their families."

Antoinette Payne, a real estate agent at Dolores Johnson Brokerage in Oakland, has known respondent for 53 years, since elementary school. She knows him professionally by working with him on mortgage loans and real estate transactions. She stated that respondent "has a wealth of real estate knowledge and is a churchgoing person." In her supporting letter, she noted that respondent "is well-respected by myself and my colleagues" and that she has never received a complaint from anyone regarding respondent during all the years that she has known him. She

also wrote that respondent has always displayed "a professional, honest manner when dealing with [her] clients."

Anthony Maddalon has known respondent since June 2019. He is the broker/owner of United Lending Partners Inc., which was established in May 2008. His company conducts and originates mortgage loans as well as real estate transactions, and employs 70 licensed agents and broker associates under its corporate license. His company employs respondent in a dual capacity, as a mortgage loan officer, and as a real estate salesperson. In his testimony, Mr. Maddalon characterized respondent as "always professional and cordial," and "honest and honorable." He noted that respondent's criminal offense was "out of character." In his supporting letter, he wrote that respondent "is well-respected by myself and the other loan officers/real estate agents in our company." He also noted that he had never received a complaint from anyone associated with respondent during the five and a half years of respondent's employment with his company.

Troy Dotson has known respondent since 1997. He is a member of the same church, and knows respondent through church and social interactions. He noted that respondent has served in various church leadership roles, and is a highly regarded and trusted member of the congregation. He currently serves with respondent on the church trustee board. Mr. Dotson stated that although respondent's criminal offense was "shocking" and "out of character," it does not alter his high regard for respondent.

8. Respondent testified regarding the circumstances underlying his criminal offense. He stated that the victim was dressed provocatively and appeared much older than 15 years of age. He averred that the victim did not object to his physical advances until he touched an intimate part of her body, whereupon he stopped and left the scene. He expressed remorse for his conduct, and regards his conduct as morally

reprehensible because of the nature of the touching and because the victim was a minor. He indicated that he was horrified when he later discovered the age of the victim. He expressed concern that the incident does not have any lingering psychological effect upon the victim. He stated that his conduct did not involve any force or coercion, as may be implied by his conviction for assault by means likely to product great bodily injury. He has sought to address his one-time aberrant criminal conduct through prayer and meditation, rather than through therapy. He described himself as "a devoted family man and family patriarch," who attends Bible study on a weekly basis.

9. The Department has adopted criteria to be considered in evaluating whether a licensee who has been convicted of crimes is rehabilitated. The relevant rehabilitation criteria include: (1) the passage of at least two years from the most recent conviction; (2) expungement of the criminal conviction; (3) successful completion of or early discharge from probation; (4) payment of any fine or other monetary penalty imposed in connection with the criminal conviction; (5) significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems; and (6) change in attitude from that which existed at the time of the commission of the criminal acts, as evidenced by the testimony and other evidence of rehabilitation submitted by the licensee or by the absence of subsequent convictions or disciplinable conduct that reflect an inability to conform to societal rules in light of the conduct in question. (Cal. Code Regs. tit. 10, § 2912.) All of the relevant criteria have been considered and applied in this case.

10. Respondent's criminal conduct occurred in July 2022, and he successfully completed a one-year probation in May 2024, which included payment of a \$220 fine.

At hearing, respondent asserted an intention to obtain expungement of his conviction. Respondent expressed remorse and acknowledged wrongdoing for his criminal offense, which he regards as morally reprehensible. Such an acknowledgement is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners of the State of California* (1989) 49 Cal.3d 933, 940 ["Fully acknowledging the wrongfulness of [one's] actions is an essential step towards rehabilitation."].) Respondent has been significantly involved in church and community outreach that provide social benefits.

11. In considering respondent's rehabilitation from his criminal offense, the nature and recency of that offense are concerning because the duties and qualifications of a real estate licensee involve matters other than technical knowledge, or honesty or truthfulness. (*Robbins v. Davi* (2009) 175 Cal.App.4th 118, 125-126.) Penal Code section 245, subdivision (a)(4), to which respondent entered a guilty plea, makes it a crime to assault someone using such force that it is likely to cause the victim to suffer a great bodily injury. Regardless of the various motives which may have impelled such a plea, the conviction stands as conclusive evidence of guilt of the offense charged. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) Respondent's offense, under the factual circumstances presented, involved a nonconsensual touching of an intimate part of the underage victim's body. His conviction occurred less than two years ago, and the underlying offense occurred less than three years ago.

12. The application of the Department's rehabilitation criteria indicates that respondent has shown sufficient rehabilitation to warrant issuing respondent a restricted real estate salesperson license. Respondent's acknowledgment of wrongdoing, and the isolated nature of that wrongdoing, establish minimal risk of recidivist behavior. However, a showing of full rehabilitation requires sustained exemplary conduct over an extended period. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

In assessing respondent's rehabilitation, it is apparent that insufficient time has passed for him to establish complete rehabilitation. Although respondent complied with his criminal probation requirements, such compliance is discounted because of the expectation of good behavior associated with probation. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099 [little weight is given to [one's] good behavior while on probation because such conduct is expected.]) Complainant, in acknowledgment of the sufficiency of respondent's rehabilitation evidence, recommended the issuance of a restricted license with terms and conditions to assure public protection, notwithstanding the relative recency of respondent's conviction. A restricted license, which allows for close monitoring, is an appropriate means of addressing concerns regarding the recency and gravity of respondent's criminal offense.

13. As discussed in the Legal Conclusions below, cause exists to discipline respondent's license. Based on the totality of the evidence presented, however, while respondent's rehabilitation may not be complete, he established that he has been sufficiently rehabilitated from his criminal offense so that he may be allowed to retain licensure on a restricted basis. Therefore, respondent's unrestricted license should be revoked, and he should be issued a restricted license with the restrictions specified in the Order below, to assure public protection.

The proposed penalty takes into account the matters in aggravation alleged in the accusation, which were considered but given minimal weight. Although respondent's misdemeanor conviction in 2009 for disclosure of confidential information, in his capacity as an IRS revenue agent, arguably implicates the duty of a real estate licensee to maintain confidential information, the remoteness in time of that conviction entitles it to minimal weight. Additionally, based on that conviction, respondent was issued a restricted license as an insurance producer in 2016.

Respondent maintained that license, between 2016 and 2019, without apparent disciplinary incident. Moreover, the testimony of witnesses at hearing regarding respondent's professionalism and honesty as a real estate licensee negates any negative inference from the matters alleged in aggravation.

Costs

14. Complainant submitted a Certified Statement of Costs, requesting that respondent be ordered to pay the reasonable costs of investigation and enforcement in this case, totaling \$1,781.25, pursuant to Business and Professions Code section 10106. Complainant's Certified Statement of Costs asserts \$528 in enforcement (prosecution) costs incurred prior to the hearing date. Complainant also submitted a Certified Statement of Investigative Costs in the amount of \$1,253.25. Complainant's request and the reasonableness of these costs are addressed in the Legal Conclusions, below. Respondent requested that the claimed costs not be assessed because of age-related financial hardship.

LEGAL CONCLUSIONS

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.)

2. The Department may discipline a real estate licensee who has been convicted of a crime substantially related to the qualifications, functions, or duties of a

real estate licensee. (Bus. & Prof. Code, §§ 490, subd. (a); 10177, subd. (b).) The Department deems a crime to be substantially related to the qualifications, functions, or duties of a licensee, if it involves the "doing of any unlawful act with the intent or threat of doing substantial injury to the person or property of another. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) The nature and gravity of the offense are also taken into consideration when determining whether to deem an offense to be substantially related to the qualifications, functions or duties of a licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (c).)

3. Based on the aforementioned considerations, respondent's conviction for assault by means likely to produce bodily injury is substantially related to the qualifications, functions or duties of a real estate licensee. Such an offense, on its face, necessarily involved the performance of an unlawful act with the threat of doing substantial injury to the person of another. Therefore, cause exists to discipline respondent's real estate license pursuant to Business and Professions Code sections 490, subdivision (a), and 10177, subdivision (b).

4. The Department has developed criteria for evaluating whether a licensee has been rehabilitated. (Cal. Code Regs., tit. 10, § 2912.) All of the relevant criteria have been considered and applied.

5. Based on the Factual Findings and Legal Conclusions as a whole, it would be consistent with the public interest, safety, and welfare to allow respondent to retain licensure on a restricted basis. Therefore, respondent's unrestricted license should be revoked and he should be issued a restricted license with the restrictions specified in the Order below to assure public protection.

6. Business and Professions Code section 10106 authorizes the Real Estate Commissioner to request an order directing 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.

In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered when determining the reasonableness of costs sought pursuant to statutory provisions like Business and Professions Code section 10106. These factors include: (a) whether the licensee has been successful at hearing in getting charges dismissed or reduced; (b) the licensee's subjective good faith belief in the merits of his or her position; (c) whether the licensee has raised a colorable challenge to the proposed discipline; (d) the financial ability of the licensee to pay; and (e) whether the scope of the investigation was appropriate in light of the alleged misconduct.

7. As set forth in Factual Finding 14, complainant seeks \$1,781.25 for investigation and enforcement costs. When all of the *Zuckerman* factors are considered, including respondent's financial hardship, it is reasonable and appropriate to reduce the requested costs to \$900.

ORDER

All licenses and licensing rights of respondent Willie E. Wilcox, 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. Prehearing Suspension

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.

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 Real Estate Law, the Subdivided Lands Law, regulations of the Commissioner, or conditions attaching to the restricted license.

2. Term of Restriction

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.

3. Employing Broker Statement

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 which is the basis for the issuance of the restricted license; and
- (b) That the employing broker will exercise close supervision over the performance by the restricted licensee of any acts for which a real estate license is required.

4. Continuing Education

Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the 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.

5. Reporting

Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. 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. Respondent also must comply with the reporting requirements of Business and Professions Code section 10186.2, subdivision (a).

6. Costs

Pursuant to Business and Professions Code section 10106, respondent shall pay \$900 to the Department of Real Estate, as its reasonable investigation and enforcement costs, no later than two years after the issuance of the restricted license, or according to a payment plan approved by the Commissioner

DATE: February 27, 2025

Wilbert E. Bennett

Wilbert E. Bennett (Feb 27, 2025 16:24 PST)

WILBERT E. BENNETT

Administrative Law Judge

Office of Administrative Hearings