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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	
	)	
LYNEL CHARLES FORD,	)	No. H-7443 SAC
	)	
Respondent.	)	OAH No. 2025050024
	)	

STIPULATION AND AGREEMENT  
AND  
DECISION AFTER REJECTION

The California Department of Real Estate (the "Department") filed an Accusation against LYNEL CHARLES FORD on April 16, 2025. This matter came for hearing before Sean Gavin, Administrative Law Judge, Office of Administrative Hearings, State of California, in Sacramento, California, on July 31, 2025.

Jack Gonzalez Jr., Counsel, represented the Complainant, Heather Nishimura, in her official capacity as a Supervising Special Investigator with the Department. LYNEL CHARLES FORD appeared and was represented by Frank Buda. Evidence was received, the record was closed and submitted on July 31, 2025.

On August 29, 2025, the Administrative Law Judge rendered a Proposed Decision (the "Proposed Decision") which the Real Estate Commissioner (the "Commissioner") declined to adopt the Proposed Decision. Pursuant to Section 11517 of the Government Code of the State.

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

5 Written argument was not submitted by Respondent. Written argument was not  
6 submitted on behalf of Complainant. The parties wish to settle this matter without further  
7 proceedings.

8 IT IS HEREBY STIPULATED by and between LYNEL CHARLES FORD, as  
9 Respondent, represented by Frank Buda, and the Complainant, acting by and through Jack  
10 Gonzalez Jr., Counsel for the Department, as follows for the purpose of settling and disposing of  
11 the Accusation filed by Complainant.

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

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

22 3. Respondent understands that by agreeing to this Stipulation, Respondent  
23 agrees to pay, pursuant to Section 10106 of the Business and Professions Code (the "Code"), the  
24 cost of the investigation and enforcement which resulted in the determination that Respondent  
25 committed the violations found in the Determination of Issues. The amount of said costs is  
26 \$1,441.50.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and waivers, and solely for  
3 the purpose of settlement of the pending Accusation, it is stipulated and agreed  
4 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds  
5 for the suspension or revocation of the licenses and license rights of Respondent under the  
6 provisions of Section 10177(b)(1).

7 ORDER

8 1. All real estate licenses and licensing rights of Respondent are revoked;  
9 provided, however, a restricted real estate broker license shall be issued subject to the  
10 requirements of Section 10156.5 of the Code if, within ninety (90) days of the effective date of  
11 the Order, Respondent makes application thereof and pays to the Department the appropriate fee  
12 for the restricted license. The restricted license issued to Respondent shall be subject to all of the  
13 provisions of Section 10156.7 of the Code and to the following limitations, conditions, and  
14 restrictions imposed under authority of Section 10156.6 of said Code:

15 a. The restricted license issued to Respondent may be suspended prior to  
16 hearing by order of the Commissioner in the event of Respondent's conviction or  
17 plea of nolo contendere to a crime that is substantially related to Respondent's  
18 fitness or capacity as a real estate licensee.

19 b. The restricted license issued to Respondent may be suspended prior to  
20 hearing by order of the Commissioner on evidence satisfactory to the  
21 Commissioner that Respondent has violated provisions of the California Real  
22 Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or  
23 conditions attaching to the restricted license.

24 c. Respondent shall not be eligible to apply for the issuance of an unrestricted  
25 real estate license nor the removal of any of the conditions, limitations, or  
26 restrictions attaching to the restricted license until two (2) years have elapsed  
27 from the effective date of this Stipulation.

1                   2. Respondent shall, within nine (9) months from the effective date of this Order,  
2 present evidence satisfactory to the Commissioner that Respondent has, since the most recent  
3 issuance of an original or renewal real estate license, taken and successfully completed the  
4 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
5 of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order  
6 the suspension of the restricted license until the Respondent presents such evidence. The  
7 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the  
8 Administrative Procedure Act to present such evidence. Proof of completion of the continuing  
9 education courses must be delivered to the Department of Real Estate, Flag Section at 651  
10 Bannon Street, Suite 504, Sacramento, CA 95811.

11                   3. Respondent shall notify the Commissioner in writing within seventy-two (72)  
12 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real  
13 Estate, Flag Section at 651 Bannon Street, Suite 504, Sacramento, CA 95811. The letter shall set  
14 forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name  
15 and address of the arresting law enforcement agency. Respondent's failure to timely file written  
16 notice shall constitute an independent violation of the terms of the restricted license and shall be  
17 grounds for the suspension or revocation of that license.

18                   4. Pursuant to Sections 10106 and 10148 (b) of the Code, Respondent shall pay  
19 the Department the reasonable investigation and enforcement costs of \$1,441.50. Respondent's  
20 failure to pay the Department shall constitute an independent violation of the terms of the  
21 restricted license and shall be grounds for the immediate suspension or revocation of that license.  
22 Said payment shall be in the form of a cashier's check or certified check made payable to the  
23 Real Estate Fund. Said check must be received by the Department prior to the effective date of  
24 the order in this matter at the following address: Department of Real Estate, Flag Section at 651  
25 Bannon Street, Suite 504, Sacramento, CA 95811.

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Dec 22, 2025

DATED

*Jack Gonzalez Jr*

JACK GONZALEZ JR, Counsel  
DEPARTMENT OF REAL ESTATE

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I have read the Stipulation and Agreement and Decision After Rejection, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I willingly and voluntarily agree to enter into this Stipulation.

*12/19/2025*

DATED

*Lynel Charles Ford*

LYNEL CHARLES FORD  
Respondent

*I have reviewed the Stipulation and Agreement and Decision After Rejection as to form and content and have advised my client accordingly.*

*12-19-25*

DATED

*Frank Buda*

FRANK BUDA  
Attorney for Respondent

DECISION AND ORDER

The foregoing Stipulation and Agreement and Decision after Rejection is hereby adopted by the Real Estate Commissioner as their Decision and Order.

This Decision and Order shall become effective at 12 o'clock noon on  
JAN 07 2026

IT IS SO ORDERED December 24, 2025

CHIKA SUNQUIST  
REAL ESTATE COMMISSIONER



**FILED**

SEP 29 2025

DEPARTMENT OF REAL ESTATE  
By J. Taggart

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	DRE No. H-7443 SAC
	)	
LYNEL CHARLES FORD,	)	OAH No. <b>2025050024</b>
	)	
Respondent.	)	

NOTICE

TO: LYNEL CHARLES FORD, Respondent, and FRANK M. BUDA , his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision, herein dated August 29, 2025, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 29, 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 Thursday, July 31, 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 Thursday, July 31, 2025, at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause

1 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.

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DATED: September 29, 2025

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CHIKA SUNQUIST  
REAL ESTATE COMMISSIONER

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

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

**LYNEL CHARLES FORD, Respondent**

**Agency Case No. H-7443-SAC**

**OAH No. 2025050024**

**PROPOSED DECISION**

Sean Gavin, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on July 31, 2025, from Sacramento, California.

Jack Gonzalez, Jr., Department Counsel, represented complainant Heather Nishimura, a Supervising Special Investigator for the Department of Real Estate (Department).

Frank M. Buda, Attorney at Law, represented respondent Lynel Charles Ford, who was present throughout the hearing.

Evidence was received, the record closed, and the parties submitted the matter for decision on July 31, 2025.

## FACTUAL FINDINGS

### Jurisdictional Matters

1. On March 24, 2016, the Department issued respondent a salesperson license. On July 19, 2019, the Department issued respondent, doing business as Fordy Realty, broker license number B/01999983 (license). The license is active and will expire on July 18, 2027, unless renewed. There is no history of prior license discipline.

2. Respondent has also held an Individual Mortgage Loan Originator (MLO) License Endorsement and a Company MLO License Endorsement since May 2020. Apart from brief interruptions when the MLO endorsements were terminated because respondent failed to renew them timely, they have been continually active since May 2020.

3. On April 16, 2025, complainant, in her official capacity, filed an Accusation to discipline respondent's license based on his May 2024 conviction for insurance fraud and the underlying conduct. Respondent timely filed a Notice of Defense, in which he raised the following 13 affirmative defenses: (1) failure to state acts or omissions upon which the Department may proceed; (2) the Department lacks jurisdiction; (3) the Accusation is a discriminatory application of law in violation of respondent's equal protection; (4) agency misconduct; (5) equitable estoppel; (6) collateral estoppel; (7) res judicata; (8) laches; (9) selective prosecution; (10) prior prosecution; (11) double jeopardy; (12) waiver; and (13) the Accusation was filed more than three years from the occurrence of the alleged grounds for discipline, in violation of Business and Professions Code section 10101. This hearing followed.

## **Respondent's Conviction**

4. On May 3, 2024, in the Superior Court of California, County of Sacramento, Case No. 23FE021145, respondent was convicted, on his plea of no contest, of violating Penal Code section 550, subdivision (b)(1) (knowingly presenting a false claim for payment on an insurance policy), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for six months on conditions that required him, among other things, to serve one day in jail with credit for time served, pay \$52,509.27 in restitution to State Farm Insurance (State Farm), and pay other fines and fees to the Court.

5. The circumstances underlying the conviction began on December 13, 2022, when respondent's car was stolen in Oakland, California. He filed a police report and an insurance claim with State Farm the same day. On December 19, 2022, the police found respondent's car in a parking garage and contacted him. He retrieved the car the same day.

6. On December 20, 2022, respondent signed and submitted an Affidavit of Theft form to State Farm in which he stated, under penalty of perjury, that the last time he saw the car was on December 13, 2022, and he had not recovered it. On December 29, 2022, respondent agreed to settle his claim with State Farm by surrendering the title in exchange for \$52,509.27, which constituted the total loss value of the car minus his \$1,000 deductible. Respondent received the check from State Farm on January 11, 2023.

## **Matter in Aggravation**

7. On November 13, 2002, in the Superior Court of California, County of Yolo, Case No. CR-2002-6758, respondent was convicted, on his guilty plea, of

violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of alcohol) and 23103, subdivision (a) (reckless driving), both misdemeanors. The court suspended imposition of sentence and placed respondent on informal probation for three years on conditions that required him, among other things, to serve two days in jail with credit for time served, complete a First Time Offender Alcohol Program, and pay fines and fees to the Court.

### **Respondent's Evidence**

8. Respondent is 42 years old. He has been licensed by the Department, either as a salesperson or a broker, since March 2016, when he was 32. His practice focuses on residential home sales. He has personally completed between approximately 200 and 300 deals, and agents under his brokerage have completed approximately 200 additional deals. He has been recognized by multiple professional organizations for the volume of his business, including being invited to join the Sacramento Association of Realtors' Master Club and being included in the Sacramento Real Producers' Top 500. He has never received any complaints from his clients, other Department licensees, or the public about his work.

9. Regarding his crime, respondent took responsibility for his wrongdoing. He submitted a Conviction Detail Report to the Department on September 6, 2024, to which he attached a written statement explaining his conduct. He wrote, in relevant part:

I made false statements in the [insurance] form because I did not provide information regarding the recovery of the car and the date I last saw my car. This was something which was wrong and if I could do it over again, I would not

have done. I am making the above statement not because I was caught, but because I have come to realize that there are no excuses for acting dishonestly. I should have immediately informed State Farm that the car was recovered.

10. Respondent went on to express, "I have no excuses for my crime." At hearing, respondent's attorney asked questions about his marriage and subsequent divorce. Respondent confirmed that he and his wife separated in January 2023 after maintaining an unhealthy relationship for approximately two years before that. However, he insisted his marital stress did not contribute to his poor choices. This was consistent with his written statement to the Department, in which he acknowledged:

Not as an excuse for what I did, but as background as to what was happening in my life at the time of the crime, my then-wife and myself had separated and we were going through the divorce process. We have a daughter together. I was very sad and very stressed about my life and the end of my marriage. Since that time I have been going to weekly therapy and have dealt with my feelings, stress, and the reasons I acted the way I did. I want you to know that I am the one responsible. Again, I should never have done that. I am sorry and have learned there are no excuses for being dishonest. This was the biggest mistake of my life, but I have learned from it. I know that I must always be honest in all my dealings.

11. Similarly, respondent's attorney asked him at hearing whether he was experiencing financial difficulties or stress in late 2022. Respondent declined to blame his behavior on his financial situation. He was adamant that financial hardship did not motivate his crime. He noted that he paid State Farm the full restitution amount by delivering a check to the district attorney in court on May 3, 2024, the day of his conviction. He was able to do so because he had set the money aside and not spent it. Additionally, he has worked for the California Department of Finance since June 2020. Before that, he worked for the California State Lottery from June 2017 through June 2020.

12. After his conviction, respondent served his six months of informal probation, during which time he paid all additional court-ordered fines and fees. On November 18, 2024, through a process commonly known as expungement, the court ordered respondent's plea withdrawn, set the conviction aside, and dismissed the charges against him pursuant to Penal Code section 1203.4.

13. Respondent is now in a new relationship. They are engaged to be married and have a 16-month-old daughter. Respondent also shares custody of his 11-year-old daughter with his ex-wife. In addition to working and spending time with his family, respondent is an active member of Deal Mastery 101, a networking group that meets once a month to discuss investing in real estate. Respondent is passionate about helping others learn and grow in the real estate field.

### **CHARACTER EVIDENCE**

14. Sebron Flenaugh, respondent's friend and agent, testified at hearing and wrote a letter in support. He has known respondent since 2017 and worked as an agent at his brokerage since 2020. Respondent told Mr. Flenaugh about his conviction

and his underlying misconduct. Respondent said he made a bad decision and wishes he would have thought it through beforehand. Although respondent confirmed he knowingly engaged in fraud, Mr. Flenaugh continues to see him as an "extremely honest and conscientious professional." Mr. Flenaugh did not dispute respondent's actions. Rather, he emphasized that in the eight years they have known each other, he has never witnessed respondent behave unethically or dishonestly. He believes respondent genuinely regrets his behavior and will actively avoid future wrongdoing.

15. In addition, respondent submitted two letters of support from his fiancée, Yashna Achari. She is aware of his crime and conviction and believes they do not reflect his true nature. She characterized him as "a terrific partner" who supports their family "mentally, spiritually, and financially." She praised his commitment to family obligations, such as soccer practices and pediatric appointments, and emphasized that he is "most respectful to myself and others" in all his interactions. She further noted that respondent has shared his deep regret and remorse for his misconduct, "not only for the legal consequences but also for how his actions may have affected his family, his career, and those who trust him." She has never known respondent to behave dishonestly or unprofessionally, and she does not believe he will do so again in the future.

## **Analysis**

16. The Department has adopted criteria to evaluate the rehabilitation of a licensee convicted of a crime. The criteria relevant to this matter include: the time that has elapsed since commission of the acts or offenses; payment of court-imposed fines, fees, or restitution to any injured parties; successful completion of probation; expungement of the conviction; stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction; significant and

conscientious involvement in community programs designed to provide social benefits or to ameliorate social problems; and a change in attitude from that which existed at the time of the conduct in question. (Cal. Code Regs., tit. 10, § 2912.)

17. Respondent committed insurance fraud in December 2022, but he was not convicted until May 2024. Thus, although his actual criminal conduct is more remote in time, his conviction occurred less than two years ago. As such, despite his lawful conduct since then, he cannot use the passage of time to demonstrate rehabilitation. "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 [Department's] Accusation against the licensee is inadequate to demonstrate rehabilitation." (Cal. Code Regs., tit. 10, § 2912, subd. (a)(1).)

18. Nevertheless, all other relevant rehabilitation criteria marshal in respondent's favor. He paid the full restitution amount to State Farm on the day of his conviction. He also completed all other terms of his criminal probation, including paying other fines and fees. Consequently, the court expunged his conviction on November 18, 2024, just slightly more than six months after his probation began.

19. Additionally, respondent is committed to his family, his career, and the real estate community. He has handled hundreds of transactions for clients without any complaints or license discipline. He is a member of professional organizations that recognize leaders in the field and uses those opportunities to help others grow their own careers. He has the support of his fiancée and Mr. Flenaugh, both of whom shared that respondent's crime was out of character for him.

20. Most notably, respondent credibly testified to his sincere remorse for his criminal behavior. Although his attorney seemed to suggest, through his questions,

that financial or marital stress contributed to respondent's state of mind, respondent steadfastly declined to blame his choice on his circumstances. Rather, while he acknowledged the stressors in his life at that time, he repeatedly emphasized that they neither explained nor excused his actions.

21. Respondent's genuine accountability is significant because the purpose of analyzing rehabilitation is "to gauge whether the [respondent] has changed so that a repeat of his criminal behavior is unlikely." (*Singh v. Davi* (2012) 211 Cal.App.4th 141, 149.) When making that determination, the individual's change in attitude is "arguably the most important [factor] in predicting future conduct." (*Ibid.*) Respondent presented persuasive evidence to prove that he has experienced a change in attitude since his crime in December 2022.

22. 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.) Respondent provided evidence of rehabilitation such that completely revoking his license would be unduly punitive. Rather, when the evidence and rehabilitation factors are considered, the appropriate discipline is to revoke respondent's license but allow him to seek a restricted license. Allowing respondent to practice under a restricted license, subject to appropriate terms and conditions, appropriately balances respondent's evidence of rehabilitation with the Department's mandate to protect the public.

### **RESPONDENT'S AFFIRMATIVE DEFENSES**

23. As explained in Factual Finding 3, respondent raised 13 affirmative defenses in his Notice of Defense. Many of those defenses are frivolous because they are totally and completely without merit. (See Cal. Code Regs., tit. 1, § 1040, subd.

(a)(2)(A.) Specifically, the Accusation clearly states grounds on which the Department may proceed, the Department unquestionably has jurisdiction, and the Accusation is not barred by Business and Professions Code section 10101 because it was filed in April 2025, less than three years after respondent's criminal conduct in December 2022.

24. The balance of respondent's affirmative defenses are rejected. Respondent did not prove the Accusation is barred by the doctrines of agency misconduct, discriminatory application of the law, equitable or collateral estoppel, res judicata, laches, selective or prior prosecution, double jeopardy, or waiver.

### **Costs**

25. 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 \$601.50 for 7.5 hours of investigation time. Attached to the certification is 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 Mr. Gonzalez incurred \$850 in costs for seven hours of time enforcing this matter. Respondent objected to complainant's request as excessive. Cost recovery is addressed in the Legal Conclusions below.

## **LEGAL CONCLUSIONS**

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.)

2. 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 burden 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**

3. 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).) A conviction is substantially related to the qualifications, functions, or duties of a real estate licensee if it involves: "[t]he fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person"; "[t]he employment of . . . fraud, deceit, falsehood or misrepresentation to achieve an end"; or "[d]oing 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." (Cal. Code Regs., tit. 10, § 2910, subds. (a)(1), (4), (8).)

4. As discussed above, respondent was convicted of violating Penal Code section 550, subdivision (b)(1). A person violates that law when he or she "[p]resent[s] or cause[s] to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy,

knowing that the statement contains any false or misleading information concerning any material fact." Respondent's conviction is therefore substantially related to the qualifications, functions, or duties of a real estate license under California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (4), and (8). As such, cause exists to discipline respondent's license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), jointly and severally.

5. The Real Estate Commissioner may discipline a professional license if the licensee has "[e]ngaged in any other conduct . . . that constitutes fraud or dishonest dealing." (Bus. & Prof. Code, § 10177, subd. (j).) Respondent's criminal conviction involved fraud. Cause therefore exists to discipline his license pursuant to Business and Professions Code section 10177, subdivision (j).

### **RESPONDENT'S MLO ENDORSEMENTS**

6. In the Accusation, complainant's prayer is for a decision "imposing disciplinary action against all licenses and license rights of Respondent under the Code, for the reasonable costs of investigation and prosecution of this case, including agency attorney's fees and for such other and further relief as may be proper under provisions of law." During closing argument, complainant requested that respondent's broker license and MLO endorsements be revoked.

7. Business and Professions Code section 10166.051, subdivision (a), authorizes the Commissioner to discipline an MLO endorsement "for a violation of [Business and Professions Code sections 10166.01 through 10166.17], or any rules or regulations adopted [t]hereunder." However, in the Accusation, complainant alleged neither section 10166.051 nor the basis for its application. Indeed, complainant did not mention respondent's MLO endorsements in the Accusation at all. Rather, complainant

alleged, in paragraph 2, "Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (the 'Code') by the Department of Real Estate (the 'Department') as a real estate broker."

8. An Accusation must "specify the statutes and rules that the respondent is alleged to have violated." (Gov. Code, § 11503, subd. (a).) "This provides a constitutionally required notice to the accused of the standards by which his conduct is to be measured." (*Wheeler v. State Bd. of Forestry* (1983) 144 Cal.App.3d 522, 527.) "The fulfillment of this requirement is a statutory predicate for disciplinary action. It follows that the finding must be based upon the accusation." (*Ibid.*) One purpose of this requirement is so that "respondent will be able to prepare their defense." (Gov. Code, § 11503, subd. (a).)

9. Here, because complainant neither included Business and Professions Code section 10166.051, subdivision (a), nor mentioned respondent's MLO endorsements in the Accusation, there can be no discipline of those endorsements. It would violate fundamental principles of due process to discipline respondent's MLO endorsements under section 10166.051 without any notice to him or an opportunity to prepare his defense to those charges.

### **Respondent's Affirmative Defenses**

10. As discussed in Factual Findings 23 and 24, above, respondent's affirmative defenses have been considered and rejected. The evidence did not support them.

## **Appropriate Discipline**

11. As discussed above, respondent proved his rehabilitation such that allowing him to continue practicing as a real estate broker subject to a restricted license would be consistent with public health, safety, and welfare. His 2002 DUI and reckless driving convictions have been considered in aggravation, but they are too remote in time to outweigh respondent's much more recent evidence of rehabilitation. As a result, respondent's license should be revoked, but he should be permitted to apply for a restricted license, subject to the terms and conditions outlined in the Order below.

12. Pursuant to Business and Professions Code section 10080, the commissioner has adopted regulations that are reasonably necessary to enforce the Real Estate Law. Among those regulations is California Code of Regulations, title 10, section 2930, titled "Standard Proposed Decision Language." Under that section, a broker whose license is revoked with a right to a restricted license "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 two years have elapsed from the effective date" of the decision. Therefore, as detailed in the Order below, respondent's license will be restricted for a minimum of two years, after which he may apply for an unrestricted license. If and when he applies for an unrestricted license, the Department will have an opportunity to evaluate his fitness for such a license at that time.

## **Costs**

13. The Department may request that a licensee found to have violated 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 Bd. 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 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.

14. Complainant requested \$601.50 in investigation costs and \$850 in enforcement costs. Respondent argued those costs are excessive. That argument is rejected. Considering the factors set forth in *Zuckerman*, complainant's requested costs are reasonable, although they require one modification. The printout attached to the Statement of Investigation Costs shows three Department employees spent a total of 7.5 hours on the matter. However, the printout also shows the hourly rate for one of the professionals was \$79, as opposed to \$97 as stated in the summary on the first page of the Statement. The printout is deemed to be more accurate than the summary. (Cal. Code Regs., tit. 1, § 1042, subd. (b)(1).)

15. The employee in question spent 0.25 hours on the matter. At the hourly rate of \$79, the costs attributable to her work are \$19.75. That is the amount shown in the printout. Therefore, the Department's investigation costs, as correctly calculated, are \$597. As a result, respondent is responsible to reimburse the Department its total investigation and enforcements costs of \$1,447, as set forth in the order below.

## ORDER

All licenses and licensing rights of respondent Lynel Charles Ford under the Real Estate Law are revoked; provided, however, a restricted real estate broker 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 two years have elapsed from the effective date of this Decision.

4. 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.

5. Respondent shall report in writing to the Department of Real Estate, as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which respondent engaged during the period covered by the report.

6. 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 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.

7. Respondent shall pay \$1,447 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: August 29, 2025

A handwritten signature in black ink, appearing to read "Sean Gavin". The signature is written in a cursive style with a horizontal line underneath.

SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings