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DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of MIGUEL ANGEL AGUAYO, Respondent.	DRE No. **H-7454 SAC** OAH No. **2025091065**

NOTICE

TO: MIGUEL ANGEL AGUAYO.

YOU ARE HEREBY NOTIFIED that the Proposed Decision, herein dated January 16, 2026, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated January 16, 2026, 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 Wednesday, December 24, 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 Wednesday, December 24, 2025, at the

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

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

DATED: March 4, 2026.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER

[redacted]

By: CHIKA SUNQUIST
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MIGUEL ANGEL AGUAYO, Respondent

Agency Case No. H-7454 SAC

OAH No. 2025091065

PROPOSED DECISION

Luke VanderDrift, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by teleconference on December 24, 2025, from Sacramento, California.

Jack Gonzalez, Jr., Counsel, represented Heather Nishimura (complainant), Supervising Special Investigator, Department of Real Estate (Department or Bureau).

Miguel Angel Aguayo (respondent) appeared without the assistance of counsel.

Evidence was received, the record closed, and the parties submitted the matter for decision on December 24, 2025.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 23, 2007, the Department issued respondent broker license number B/01455832. The license was active and in full force at all relevant times and is scheduled to expire on January 22, 2027, unless renewed. The Department issued respondent a Mortgage Loan Originator (MLO) endorsement on January 5, 2016. Respondent is also licensed by the Department as the officer of Custom Mtg. Inc under license number C/02018146. The license is scheduled to expire on February 2, 2029, unless renewed.

2. On June 11, 2025, complainant, acting solely in her official capacity, filed an Accusation to discipline respondent's licenses and license rights based on his December 2022 convictions for assault and disorderly conduct and for failing to timely report the convictions to the Department. Respondent filed a Notice of Defense, and this hearing followed.

Criminal Convictions

3. On December 20, 2022, in the Yuma City Municipal Court, State of Arizona, respondent was convicted, after a bench trial, of violating Arizona Revised Statutes section 13-1203, subdivision (a)(1), assault, and section 13-2904, subdivision (a)(1), disorderly conduct. Both charges were misdemeanors. The court placed respondent on three years of nonreporting probation with conditions that required him, among other things, to complete a domestic violence class and pay fines, fees, and restitution.

4. The circumstances underlying the convictions occurred at approximately 2:00 p.m. on April 9, 2022. Yuma City Police Officer Prieto responded to a 911 call of a male striking a female at a local baseball field. Upon arriving, Officer Prieto identified respondent and his wife as the individuals involved. Respondent denied hitting his wife, but he admitted to pushing her by the neck. Officer Prieto watched a video of the fight showing respondent hit his wife with the back of his hand and punched her three times. The video showed respondent then pushed his wife and they both fell to the ground. Respondent's wife and three other witnesses told Officer Prieto that respondent punched his wife in the face. Officer Prieto observed respondent's wife's face was swelling and red and her jaw and leg were bruised.

Failure to Report Convictions

5. Respondent's convictions were on December 20, 2022. The Department's official custodian of records has no record that respondent disclosed his convictions to the Department within 30 days.

Respondent's Evidence

RESPONDENT'S TESTIMONY

6. Respondent is 47 years old. Before becoming a broker, he received a real estate agent license in 2004. In addition to being licensed in California, he holds real estate licenses in Arizona, Texas, Florida, and Colorado. Respondent has worked in other professions while working in real estate. He was a teacher for many years and currently works as an interpreter in a federal court in Arizona. In real estate, he manages five properties and works online as an agent and loan originator.

7. Respondent explained the circumstances leading to his conviction. He was married with three school-aged children. His wife was a stay-at-home parent and was involved with their son's baseball teams. Respondent heard rumors that she was holding hands with someone else. When his wife took their son to a baseball tournament in Las Vegas, she gave the coach a ride, brought a pot of pozole on the trip, and they stayed in the same condo. Respondent believed she was being unfaithful, moved out of their home, and pursued a divorce.

8. About a month after their separation, respondent and his wife were at their son's baseball game. Respondent was taking his son to lunch between games and became upset when his son was not walking fast enough. Respondent scolded his son and put his hand on his son's neck to walk him toward the exit. Respondent's wife ran over and confronted respondent. He contended his wife was the aggressor in the altercation and he was acting in self-defense. Respondent denied hitting his wife and stated he was only trying to grab her hands. When other people at the game intervened, respondent was tackled and suffered injuries. He thinks his wife inflicted injuries on herself later so she would appear scratched and bruised.

9. Respondent believes the judicial system treated him unfairly. Respondent believes the video was grainy and did not show what happened. He did not think the witnesses who testified against him could see what happened and were biased against him because they were friends of his wife.

10. After respondent's guilty verdict, the court ordered him to complete a four-month domestic violence class. The class was by video, and respondent had to provide an oral report to the judge upon completion about what he had learned. Respondent learned he should communicate when he is having an issue with a

partner. He also realized that he should not have defended himself so aggressively during the confrontation with his wife.

11. In addition to completing the domestic violence class, respondent voluntarily enrolled in a one-on-one parenting class. During the class, respondent learned to ask about his children's needs and to express his own. He reflected on his own childhood and how he wanted his father to be more expressive.

12. Respondent went to therapy for more than a year during his divorce. He realized he should not "bottle up" his feelings. Additionally, respondent recognized he should have told his wife about his suspicions that she was unfaithful and asked her if his suspicions were true.

13. Respondent completed all the terms of his probation. He paid for his wife's medical bills and paid the court-ordered fines and fees. The court terminated respondent's probation early following his petition dated May 8, 2024.

14. Respondent is trying to become more engaged with his community. He has moved to a new area and is working with his neighbors to clean up graffiti and abandoned cars. They are trying to incorporate the neighborhood into Yuma City so they can improve their sewer system and install streetlights.

15. Respondent finalized his divorce. His relationship with his ex-wife has improved, although they are still actively litigating in family court about how much child and spousal support respondent must pay. They jointly share custody of their children. Respondent rekindled a romantic relationship with the woman who first got him interested in real estate more than 20 years ago. He describes their relationship as healthy.

16. Besides his convictions in 2022, respondent has no prior or subsequent criminal cases. He has no previous discipline related to his real estate practice.

17. Respondent admitted he "dropped the ball" when he failed to timely report his convictions to the Department. Respondent was not trying to hide the convictions, and when he filled out his renewal application with the Department, he disclosed the convictions. He has reported the convictions to the other states where he is licensed and has not been subject to discipline.

MAYSAM TEHRANCHI'S TESTIMONY

18. Maysam Tehranchi has worked with respondent for 10 years at a small real estate company. He described himself as respondent's "right hand man" and helps with the company's website. Mr. Tehranchi went on vacation with respondent and his ex-wife when they were together.

19. Mr. Tehranchi believes respondent to be kind, honest, and peaceful. He has never heard respondent raise his voice. The incident at the little league field was out of character for him.

Analysis

20. 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 the commission of the acts or offenses; respondent's payment of fines and restitution; successful completion of criminal probation; new and different social and business relationships from those that existed at the time of the commission of the acts that led to the criminal conviction; significant and conscientious involvement in community, church, or privately-sponsored 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, subds. (a), (b), (e), (g), (i), (l) & (m).)

21. Applying those criteria, respondent demonstrated rehabilitation from his convictions. Although the conduct leading to his convictions was serious, it was an isolated incident arising from jealousy during a contentious divorce. The underlying events occurred almost four years ago. In that time, respondent successfully completed his court probation early and paid all obligations. He is becoming involved in his community. Furthermore, respondent has developed skills through classes and therapy to deal with conflict and have heathier relationships.

22. However, respondent's failure to notify the Department of his convictions is also concerning. Real estate licensees must disclose important information in several circumstances, including to the Department, their clients, and individuals involved in transactions. Forgetting about the requirement to disclose does not excuse a licensee's failure to do so.

23. When all the evidence is considered, the appropriate discipline is to revoke respondent's broker's license but allow him to seek a restricted license. 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.) In this case, 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 two years, subject to appropriate terms and conditions, appropriately balances respondent's evidence of rehabilitation with the Department's mandate to protect the public.

Costs

24. 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 $862.75 for 10.75 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 $600 in costs for five hours of time enforcing this matter.

25. Respondent believes repaying the Department's costs would present "a little bit" of a hardship. He understood he was at fault for failing to report his conviction and this caused the Department to incur legal expenses. 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.)

2. In a disciplinary action such as this, respondent must prove rehabilitation. (*Whetstone v. Bd. of Dental Examiners* (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. Protection of the public is the highest priority for the Department in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Bus. & Prof. Code, § 10050.1.)

4. 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 "[d]oing 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).)

5. As discussed above, respondent was convicted of assault and disorderly conduct. Respondent's convictions involved doing an unlawful act with the threat of doing substantial injury to another person and are therefore substantially related to the qualifications, functions, or duties of a real estate broker. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) Cause therefore exists to discipline respondent's license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), jointly and severally.

6. 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, subd. (a)(1)(B) & (2).) Failure to timely report a conviction constitutes cause for license discipline. (Bus. & Prof. Code, §§ 10186.2, subd. (b) & 10117, subd. (d).)

7. As discussed above, respondent was convicted of misdemeanors in December 2022, but he did not notify the Department of his convictions within 30 days. Cause therefore exists to discipline respondent's license pursuant to Business and Professions Code sections 10186.2, subdivision (b) and 10117, subdivision (d).

MLO ENDORSEMENT

8. When a real estate license is subject to discipline, the option to discipline the licensee's MLO endorsement is discretionary. Under the Department's regulations:

> Real estate license discipline, including a revocation, a suspension, a voluntary surrender of a real estate license, a public reproval, and/or a bar order, may be cause for the revocation and/or suspension of the real estate licensee's mortgage loan originator license endorsement. The disciplinary action on an existing license endorsement may be imposed via the same process and within the same order as the license discipline.

(Cal. Code Regs., tit. 10, § 2945.1.)

9. In the Accusation here, 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." The Accusation only listed respondent's broker license. It did not specifically mention respondent's MLO endorsement. Respondent is entitled to fair notice of the charges against him "to the end that the respondent will be able to prepare their defense." (Gov. Code, § 11503, subd. (a).) The Commissioner may only discipline an MLO endorsement "after appropriate notice and opportunity for hearing." (Bus. & Prof. Code, § 10166.051, subd. (a).) Since the Accusation did not notify respondent that complainant would seek to discipline his MLO endorsement, it did not meet the notice pleading standard, and no discipline can be ordered on the MLO endorsement.

Appropriate Discipline

10. As discussed above, respondent proved his rehabilitation such that allowing him to continue practicing as a real estate licensee subject to a restricted license would be consistent with public health, safety, and welfare. As a result, his broker 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.

Costs

11. 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 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.

12. Complainant requested $1,462.75 in investigation and enforcement costs. Respondent is employed in real estate and as an interpreter. Considering the factors set forth in *Zuckerman*, complainant's request for costs is reasonable. Therefore, respondent is responsible for reimbursing the Department its costs of $1,462.75 as set forth in the Order below.

ORDER

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

5. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Bureau 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.

6. Respondent shall report in writing to the Bureau 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 the respondent engaged during the period covered by the report.

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, PO Box 137000, Sacramento, CA 95813-7013. 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.

8. Respondent shall pay $1,462.75 to the Department, as its reasonable investigation and enforcement costs pursuant to Business and Professions Code section 10106, on terms acceptable to the Department.

DATE: January 16, 2026

Luke VanderDrift
Luke VanderDrift (Jan 16, 2026 14:24:19 PST)
LUKE VANDERDRIFT
Administrative Law Judge
Office of Administrative Hearings