

FILED

DEC 11 2008

DEPARTMENT OF REAL ESTATE

By L. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
WILFREDO ORLANDO MENDOZA,
Respondent.

No. H-9118 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 1, 2005, a Decision was rendered herein revoking the real estate broker license of Respondent effective June 22, 2005.

On July 21, 2008, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

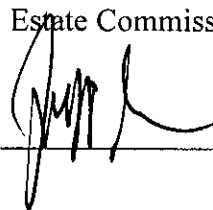
NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
reinstatement is granted and that a real estate broker license be issued to Respondent if
Respondent satisfies the following conditions within nine (9) months from the date of this Order:

1 1. Submittal of a completed application and payment of the fee for a real estate
2 broker license.

3 2. Submittal of evidence of having, since the most recent issuance of an original
4 or renewal real estate license, taken and successfully completed the continuing education
5 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
6 license.

7 This Order shall be effective immediately.

8 IT IS SO ORDERED

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10 JEFF DAVI
11 Real Estate Commissioner
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OCT 15 2007

By K. Mar

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-9118 SF
)
 WILFREDO ORLANDO MENDOZA,)
)
 Respondent.)
)

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 1, 2005, in Case No. H-9118 SF, a Decision was rendered which revoked the real estate broker license of Respondent effective July 22, 2005.

On August 28, 2006, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 this Order:

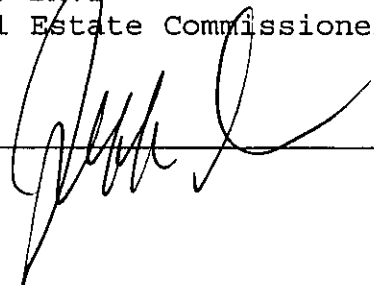
12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: _____

21 JEFF DAVIS
22 Real Estate Commissioner

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FILED
JUL 22 2005

DEPARTMENT OF REAL ESTATE

By SEy

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
WILFREDO ORLANDO MENDOZA,) NO. H-9118 SF
Respondent.) OAH NO. N-2005030788

ORDER DENYING RECONSIDERATION

On June 1, 2005, a Decision was rendered in the above-entitled matter. The Decision is to become effective at 12 o'clock noon on July 22, 2005.

On June 8, 2005, Respondent petitioned for reconsideration of the Decision of June 1, 2005.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of June 1, 2005, and reconsideration is hereby denied.

IT IS HEREBY ORDERED 7-20-05, 2005.

JEFF DAVI
Real Estate Commissioner

[Signature]

FILED
JUN 02 2005

DEPARTMENT OF REAL ESTATE

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By S. El

NO. H-9118 SF

N-2005030788

The Proposed Decision dated May 9, 2005, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on JUN 22, 2005.

IT IS SO ORDERED 6-1-05, 2005.

JEFF DAVIS
Real Estate Commissioner

Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

WILFREDO ORLANDO MENDOZA,

Respondent.

Case No. H-9118 SF

OAH No. N2005030788

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on April 29, 2005.

Complainant E. J. Haberer II, Deputy Real Estate Commissioner, was represented by Michael B. Rich, Counsel.

Respondent Wilfredo Orlando Mendoza represented himself.

The matter was submitted for decision on April 29, 2005.

FACTUAL FINDINGS

1. Respondent Wilfredo Orlando Mendoza is licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate broker.
2. On August 13, 2003, respondent was convicted in Contra Costa County, on his plea of no contest, of a misdemeanor violation of Penal Code section 273.5 (willful infliction of corporal injury upon spouse), a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee pursuant to title 10, California Code of Regulations, section 2910, subdivision (a)(8) (doing an unlawful act with the intent or threat of doing substantial injury to the person of another).
3. Following conviction, imposition of sentence was suspended and respondent was placed on probation for three years on terms that included 45 days in jail (which respondent was permitted to serve in the Work Alternative Program while on electronic home detention), payment of fines and fees of \$300, and participation in a 52-week anger management program.

4. The incident that resulted in respondent's conviction occurred on March 3, 2003. Respondent and his wife were having marital and financial difficulties. Respondent suspected his wife was having an affair. On Friday, March 2, 2003, respondent's wife went out, saying she was going out with friends. When she came home drunk at 3:00 a.m. the next morning, respondent realized he "was losing her." He testified that he became very agitated and grabbed her by the arms, bruising her arms; that his wife then locked herself in the bathroom; and that he flagged down the police. Respondent denied that he had poured wine on his wife but stated he "may have" kicked down the bathroom door. He does not think he threw his wife into the towel bar. Respondent testified that the incident was his fault, stating "I should not have put my hands on my wife." He said he regrets his actions very deeply.

5. Respondent's relatively benign description of the March 3, 2003, incident does not square with observations of the arresting police officer, the statements of respondent's wife, or of respondent's own statements to the officer. In his report, the officer stated that he first observed respondent driving slowly through an intersection at about 3:30 a.m. When he passed by the officer's car, the officer asked if he needed help. Respondent said he was looking for his wife, who was drunk and had run away. While they were talking, respondent's wife walked by on the opposite side of the street. She was barefoot, "shivering violently" and crying. She told the officer that respondent was angry with her, had poured a bottle of wine over her head, and had thrown her against the wall. She had become scared and ran from the house.

Upon returning to the house, respondent's wife showed the officer bruises, scratches, and red marks on her shoulders, arms, neck, and back. He asked her about a red mark across her back, about four inches long and one inch wide. She said respondent had thrown her into the wall and she had hit the towel bar. When asked to explain the entire incident, respondent's wife said that she and her husband had argued, and that things got violent after respondent started talking about divorce. She said he grabbed her and threw her on the floor of the bedroom; that he grabbed her by the arms and threw her, hitting her against the closet doors, sink, and then the towel bar. The officer observed that the door to the shower area was broken and had a hole about 20 inches long and eight inches wide. Pieces of wood lay splintered on the floor. Respondent's wife said that after respondent threw her against the towel bar she slammed the door and would not let him back in. He then kicked a hole in it, cutting his ankle. It was after this that he poured wine over her. Respondent's wife also said that respondent had dragged a couch in front of the door to try to keep her from leaving.

The officer's observations corroborated much of what respondent's wife had told him. He found marks on the carpeting showing that the couch had been dragged toward the front door. He observed a "fresh wound" on respondent's left ankle. And he found a piece of wood fiber in respondent's left shoe that appeared to match the wood fiber of the bathroom door. Respondent attempted to explain away much of this. He admitted he kicked a hole in the door, but said it had happened the prior week. He said he cut his ankle while gardening. When asked about the injury to his wife's back, respondent said she must have

injured herself jumping back when he kicked in the door. He denied grabbing his wife or pushing her down.

6. Respondent is 34 years old. He graduated from the University of California, Berkeley, in 1992 with a degree in political economy. He then began working in the banking industry and worked for a number of banks. He is currently an assistant vice president of corporate banking at the Mechanics' Bank, but he is taking leave to devote himself to representing himself in divorce proceedings and in a civil suit he said his wife has filed against him resulting from the March 2003 incident.

7. Respondent obtained his real estate broker license about four and one-half years ago. He does business under the name Hacienda Realty and Estates and is involved solely in residential sales. Since he received his license, respondent has completed more than 30 transactions. Working both at the bank and in his brokerage, respondent typically worked more than 70 hours per week. Over the last couple of years he has averaged more than five sales per year, and he testified that he earned more than \$50,000 in commissions last year.

8. As indicated in Finding 6, above, respondent and his wife are currently engaged in a divorce proceeding. Respondent's wife does not work and is dependent upon respondent's income. He currently makes court-ordered payments of \$3,000 per month. In addition to supporting his three children, the oldest of whom is 11, this money goes to support another child respondent's wife had less than a year after the March 2003 incident. Respondent is not that child's father. Respondent has visitation rights with his children; he sees them every other weekend and every Wednesday. He greatly values the time he spends with his children.

9. Respondent paid the fines and fees assessed at the time of his conviction and completed the required time in the Work Alternative Program. By the time he entered his plea, respondent had already begun a 52-week anger management program. He completed the program on February 9, 2004. Respondent testified that he learned in this program that sometimes he needs to "take a breather," to walk away.

10. Respondent remains on criminal probation.

11. While a student at UC Berkeley, respondent helped found Hermanos Unidos (Brotherhood United), a support and mentoring group for Hispanic students and families. The program has since grown and is now active on various university campuses. Respondent continues to act as a mentor to students at UC Berkeley through the program. He often discusses domestic issues with the students. Respondent is also an active member of both the Hispanic Chamber of Commerce of Alameda and the University of California Alumni Association.

12. Respondent asserted that his domestic violence conviction was an isolated incident. He has had no other problems with the law and he described himself as "just a hard-working guy who made a mistake."

LEGAL CONCLUSIONS

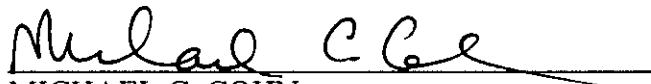
1. Under Business and Professions Code section 10177, subdivision (b), the holder of a real estate license may be disciplined if he has been convicted of a crime involving moral turpitude. Under Business and Professions Code section 490, the licensee may be disciplined if he has been convicted of a crime that is substantially related to the qualifications, functions or duties of a real estate licensee. Cause for disciplinary action against respondent exists under both these sections by reason of the matters set forth in Finding 2.

2. In title 10, California Code of Regulations, section 2912, the department has established criteria for evaluating the rehabilitation of a licensee who has committed a crime. Respondent has met some of those criteria. He has paid the fine imposed by the court. Despite the divorce proceedings he has shown that he is fulfilling familial duties to his children. And he has demonstrated involvement in programs designed to provide social benefits. But respondent has failed to meet other of the relevant criteria. Two years have not yet passed since the conviction. Respondent remains on criminal probation. And while respondent professes a change in attitude from that which existed at the time of his crime, evidence of such a change is lacking. Respondent presented no testimony or evidence from any other person to support his own testimony. And while it cannot be doubted that respondent regrets the actions that led to his conviction, the fact that he tended to downplay those actions in describing the crime – essentially painting his conduct as less serious than portrayed in the police report – creates a question about how much respondent has really learned, and has really changed, since the incident. When all factors have been considered, it is determined that respondent has failed to establish that he has rehabilitated himself to the extent that the public interest would be protected if he were permitted to retain his real estate license.

ORDER

All licenses and licensing rights of respondent Wilfredo Orlando Mendoza under the Real Estate Law are revoked.

DATED: May 9, 2005


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
FEB 22 2005

DEPARTMENT OF REAL ESTATE

By: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12)	NO. H-9118 SF
13)	
14 WILFREDO ORLANDO MENDOZA,)	<u>ACCUSATION</u>
15)	
16 Respondent.)	
17)	
18)	

16 The Complainant, E. J. HABERER II, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against WILFREDO ORLANDO MENDOZA (hereinafter
19 "Respondent"), is informed and alleges as follows:

20 I

21 Respondent is presently licensed and/or has
22 license rights under the Real Estate Law (Part 1 of Division 4
23 of the Business and Professions Code) (Code) as a real estate
24 broker.

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II

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

III

On or about August 13, 2003, in the Superior Court, County of Contra Costa, State of California, Respondent was convicted of a violation of Section 273.5 of the California Penal Code (Willful infliction of corporal injury upon spouse/cohabitant and/or the mother of his child), a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged in Paragraph III, above, constitute cause under Section 490 and/or Section 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under the provisions of law.

E. Hakura

E. J. HABERER II
Deputy Real Estate Commissioner

Dated at San Francisco, California,
this 11 day of February, 2005.