

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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**FILED**

AUG 01 2011

DEPARTMENT OF REAL ESTATE

By *[Signature]*

In the Matter of the Accusation of )  
SEAN DOUGLAS SCHWILLING, ) NO. H-11043 SF  
Respondent. ) OAH NO. 2011020422  
\_\_\_\_\_ )

DECISION

The Proposed Decision dated June 27, 2011, 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 Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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 AUG 22 2011

IT IS SO ORDERED

7/29/11

BARBARA J. BIGBY  
Acting Real Estate Commissioner

*[Signature]*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H-11043 SF

SEAN DOUGLAS SCHWILLING,

OAH No. 2011020422

Respondent.

**PROPOSED DECISION**

On May 26, 2011, Administrative Law Judge Hannah H. Rose, Office of Administrative Hearings, State of California, heard this matter in Oakland, California.

Jason D. Lazark, Counsel, represented E. J. Haberer II (complainant), a Deputy Real Estate Commissioner with the Department of Real Estate (Department).

Sean Douglas Schwilling (respondent) was represented by Mary E. Work, Attorney at Law.

Evidence was received, the record was closed, and the matter was submitted for decision on May 26, 2011.

**SUMMARY**

The Department filed this Accusation after respondent was convicted of violating Penal Code section 245, subdivision (a)(1), assault with force likely to cause great bodily injury, a misdemeanor. Respondent's crime is substantially related to his real estate salesperson's license. Respondent has demonstrated a sincere and substantial commitment to his family, his church and his community, and he is well regarded in his work. He has demonstrated understanding of the events underlying his conviction, and has committed himself to meaningful and substantial rehabilitation. Respondent has no prior discipline of his license. However, given the recentness of the violation, it is determined that respondent's unrestricted real estate salesperson license should be revoked and a restricted real estate salesperson license issued.

## FACTUAL FINDINGS

1. On November 30, 2010, complainant made and filed the Accusation in his official capacity. On December 29, 2010, respondent filed a timely Notice of Defense and Notice of Appearance of Counsel, and requested a hearing with the Department.

2. Respondent was licensed by the Department as a real estate salesperson on March 24, 2006. His license is current and it will expire on March 23, 2014.

### *Respondent's Conviction*

3. On April 29, 2010, in the Superior Court of the State of California, County of San Francisco, in case number 02436089, respondent was convicted, upon a plea of nolo contendere (no contest), of violating Penal Code section 245, subdivision (a)(1), assault with force likely to cause great bodily injury, a misdemeanor. Respondent was placed on court (unsupervised) probation for three years, sentenced to two days in county jail (with credit for two days time served), ordered to pay fines and fees totaling approximately \$300, ordered to stay away from the victim, and ordered to comply with the San Francisco Pretrial Diversion Project in its determination of restitution owed to the victim. Respondent was also ordered to return to court on May 13, 2010 for a report on the restitution determination.

4. On May 13, 2010, at the time of respondent's scheduled restitution hearing in San Francisco Superior Court, a substitute attorney was scheduled to appear for respondent's retained counsel, who was on vacation. The matter was set for 9:00 a.m., at which time respondent was present. However, respondent did not recognize the substitute attorney, and he waited in the courtroom until 11:50 a.m., at which time he left to call his attorney's office and go to the men's room. During his brief absence, his substitute attorney arrived, and the case was called. Because respondent was not present at the time, a bench warrant was issued for his arrest. The bench warrant was cleared when respondent's retained counsel returned from vacation and cleared up the matter with the court. This was respondent's only bench warrant in this matter.<sup>1</sup>

5. In a memorandum dated November 18, 2010, the Executive Director of the Pretrial Diversion Project reported to the San Francisco Superior Court that respondent had been interviewed as required, but that the Project had been unable to locate the victim and that it was therefore unable to determine restitution. Therefore, no restitution to the victim was determined or ordered by the court, and there are no further appearances scheduled for respondent with respect to restitution. Respondent has paid all fines and fees owed to the court, and is in full compliance with his probation.

6. The circumstances underlying the April 29, 2010, conviction occurred on September 11, 2009. Respondent was working part-time for Fog Town Parking as a parking valet at Green Street Mortuary in San Francisco. His responsibilities included moving cars

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<sup>1</sup> This matter was not alleged as a basis for discipline in the Accusation.

into designated parking lots as guests arrived for funeral or mortuary services at a "white curb" area in front of the mortuary. That afternoon, respondent observed a mortuary employee's car parked at the white curb, and respondent went inside to ask the manager for the car keys or to have the employee move the car. Daniel Fok, the employee whose car it was, came out to move the car. Mr. Fok criticized respondent to the mortuary manager, in front of respondent, and respondent began a heated verbal argument with Mr. Fok. Respondent was yelling when Mr. Fok forcibly opened the car door into him and knocked him backward. Mr. Fok then got out of the car and began to punch and kick respondent, before respondent gained his ground and the two men "squared off" with hands fisted. Respondent then took Mr. Fok to the ground in a wrestling type move, and "put him on his back."<sup>2</sup> It is undisputed that respondent caused Mr. Fok to fall backwards and hit his head on the pavement. Mr. Fok sustained a cut on the back of his head, but he did not need stitches. Respondent perceived himself to be acting in self-defense when he pulled Mr. Fok down.

7. Respondent cannot impeach his conviction in this proceeding. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449 ["regardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged."].) By pleading guilty or no contest, respondent stands convicted of every element of the crime. However, respondent's explanation of why he pled no contest to assault even though he feels he acted in self-defense was credible. He stated he pled no contest because he could not afford to pay his attorney what it would cost to have a jury trial, and he wished to spare his family the expense and ordeal of prolonging the matter. Respondent acknowledged that he was fully responsible for his conduct and his part in the altercation, and that he should have handled the matter in a different way.

8. At the hearing, respondent admitted that in January 2009, he had been arrested and immediately released for one previous altercation involving a car blocking the white curb while he was working as a valet at Green Street Mortuary. No charges were ever filed, and respondent was not convicted of any crime in relation to this event. However, respondent admitted that on this occasion, he engaged in a verbal argument with a taxi cab driver who had blocked the mortuary parking area to let out a passenger for a nearby theater performance. In this instance, respondent also closed the cab door on a passenger's foot, and he kicked and dented the rear panel of the taxicab.<sup>3</sup>

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<sup>2</sup> Respondent's testimony is the only direct evidence of the circumstances of the fight. A police officer's personal observations or admissions made to him and contained in the official police report may be considered as direct evidence; unsworn statements of third parties are admissible as administrative hearsay under Government Code section 11513. (*Lake v. Reed* (1997) 16 Cal.4th 448; *Hildebrand v. DMV* (2007) 152 Cal.App.4th 1562.) In this case, the arresting officers did not personally observe the fight and there were no admissions made to them; the unsworn statement of a third party, contained in the report, describes the event differently than respondent, but respondent's testimony was credible.

<sup>3</sup> The Department did not allege this event as a matter in aggravation.

9. At the hearing, respondent also acknowledged that in 1996 he had been convicted of resisting arrest and possession of marijuana, both misdemeanors, in Sonoma, California. Respondent disclosed these convictions, which arose from a single incident, in his 2006 real estate salesperson application. The convictions were considered by the Department at the time respondent was issued a license. However, in respondent's Confidential – Interview Information Statement of August 8, 2010, he listed as prior convictions the 2010 assault conviction and only the 1996 possession of marijuana conviction. He omitted reference to the 1996 conviction for resisting arrest. Respondent explained that he thought of the two 1996 convictions as one event because they arose out of a single incident, that he had revealed both of them in his 2006 application, and that he therefore thought the Department already had the full records relating to these convictions. Respondent's explanation in this regard was credible. He did not intentionally withhold this information in the Statement.

*Respondent's Evidence/Mitigation and Rehabilitation*

10. Respondent is 42 years old. In 1996, he graduated from San Francisco State University with a degree in speech and communications, and thereafter worked as a producer in the radio industry for 13 years. He is married, and has a seven year-old son. After his son was born, respondent wanted more stability and flexibility in his life than he had in the radio industry, and he undertook the study to become a real estate salesperson. Since he was licensed in 2006, respondent has worked as a real estate salesperson at Better Homes and Gardens Mason McDuffie Real Estate in the Montclair (Oakland) office. He works principally in residential sales with first-time homebuyers. Respondent's wife works full time outside the home, and respondent's work gives him the flexibility to take care of their son during the day. He takes him to and from school and after-school activities and appointments, supervises homework, and helps to coach his son's Little League team. Respondent and his son are both train buffs and they enjoy riding trains whenever they can. There have been no complaints to respondent's employer or co-workers regarding his professional activities. There is no prior discipline of his salesperson license.

11. In order to maintain his license, respondent takes continuing education classes. In addition to required courses, respondent has become certified, through REbuild USA, as a "203k Specialist"<sup>4</sup> to assist first-time homebuyers in purchasing and rehabilitating distressed properties in Oakland. Respondent is also working on another certification in the area of residential construction, but he has not yet completed that program.

12. Respondent has been active in community volunteer efforts through his work and his church. In 2010, as part of the Better Homes and Gardens Mason McDuffie Real Estate Giving Day project for Re-Building Together Oakland, respondent volunteered at a home being rehabilitated in Oakland where he designed and worked as a team leader installing the landscaping. Respondent also volunteered to continue to personally maintain

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<sup>4</sup> 203k refers to the federal government's FHA 203 Renovation Loan Program.

the landscaping after the project was complete. He again volunteered for his office's 2011 Giving Day project, this time working for the Alameda County Food Bank.

13. Respondent's attitude has changed since his conviction. He realizes that he had a problem with anger and he set out to correct it, first by reading the Bible from cover to cover and seeking answers in the church. Respondent continues to read and study the Bible daily. After he finished his first reading of the Bible, respondent began to attend several different churches in the community, looking for one that felt like a good fit. Two months ago he found the Cross Roads of Fremont Church, which he now attends regularly. Respondent also quit his second job as a parking valet, realizing that this work was very stressful for him. Through his religious studies, respondent has grown more tolerant of others and he is less quick to anger. However, he realized that he also needed better coping skills and more practical solutions to managing anger. Three months ago respondent began therapy with Tim Hui, MFT. In his therapy with Mr. Hui, respondent is learning techniques to avoid conflict and to control his anger, and to manage it when it arises. Respondent is able to describe how he would deal with an anger-provoking situation differently now than he did in 2009.

14. William Boze testified that he is the Branch Manager of the Better Homes and Gardens Mason McDuffie Real Estate office in Montclair (Oakland). He is a licensed real estate salesperson and he has known respondent since 2005. He has been respondent's supervisor since December 2009, at which time respondent told Mr. Boze about his conviction, expressed remorse, and admitted that he had "messed up." Respondent also discussed with Mr. Boze that he had been going to church and sought counseling in an effort to change his behavior. Mr. Boze believes respondent is sincere in his remorse and in his efforts to change. Mr. Boze also testified that respondent is well liked at work, that he has never gotten into any arguments with clients or co-workers, and that he has received many positive comments from both clients and co-workers. Respondent is a professional agent who conducts himself well. Mr. Boze would welcome respondent to stay with the company, even if his license were restricted.

15. Jacob Root testified that he has known respondent since they worked together at a radio station in San Francisco 10 years ago when Mr. Root was an intern at the station and respondent was his trainer and mentor. They are friends now, and have attended the Cross Roads Fremont Church together for the last two months. Mr. Root regularly discusses the Bible with respondent, sees him at church, and their families socialize. Mr. Root has noticed that since his conviction, respondent has become more loving and affectionate as a person and a friend. He testified that respondent attends services weekly, volunteers with the "sight and sound team," and works the audio board at the church. Mr. Root also regards respondent as a good father and family man, and he would recommend him as a real estate agent. Respondent has expressed remorse to Mr. Root for the incident leading to his conviction.

16. Respondent provided seven letters of support, which were considered to the extent permitted under Government Code section 11513, subdivision (d).<sup>5</sup> Trish Grima, Fran Donohue, and Burnard Myers are licensed real estate salespersons at Better Homes and Gardens Mason McDuffie Real Estate in the Montclair (Oakland) office. They praised respondent's volunteer efforts on the company's Giving Days in 2010 and 2011, praised his professionalism and ethics, and noted the high regard in which he is held. Donald Gates, a mortgage loan officer in respondent's office, also praised respondent's professionalism, commitment to self-examination and personal growth following his 2010 conviction. Jim Bianco is a personal friend of respondent's and Vince and Celine Torrano are former clients who became good friends. They each wrote to corroborate that respondent has made positive life changes through his church, community volunteering and therapy, and commended respondent as a husband, father and son-in-law. All who wrote in support of respondent were familiar with his criminal conviction. Tim Hui, MFT, wrote that respondent has been in weekly therapy since March 2, 2011, for anger management counseling, and that "Significant progresses have been made as evidenced by Mr. Schwilling's cooperation, positive learning motivations and his active engagement in sessions in developing new insights into some dysfunctional behavioral patterns he used to cope with at (sic) his younger years."

## LEGAL CONCLUSIONS

### *Burden of Proof*

1. In an Accusation seeking to revoke, suspend, or otherwise discipline respondent's professional license, the Department has the burden to establish the allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) As set forth below, complainant has met his burden to establish that respondent's real estate salesperson's license should be disciplined pursuant to section 10177, subdivision (b), and section 490, subdivision (a), of the Business and Professions Code.

### *Applicable Statutes and Regulations*

2. Business and Professions Code section 490 provides, in relevant part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, and that this section establishes an independent basis for a board to impose discipline upon a licensee. A conviction includes a plea of guilty or nolo contendere.

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<sup>5</sup> Government Code section 11513, subdivision (d), states in pertinent part, "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. ..."

3. Business and Professions Code section 10177, subdivision (b), states, in relevant part, that the commissioner may suspend or revoke the license of a real estate licensee who has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee. Discipline may be imposed even if there is an order granting probation following that conviction, suspending the imposition of sentence, or there is a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty.

4. In California Code of Regulations, title 10, section 2910, the Department has set forth criteria for determining whether a conviction is substantially related to the qualifications, functions or duties of a licensee. Subdivisions (a)(8), (a)(9), and (a)(10) of section 2910, provide that a conviction will be deemed to be substantially related if it evidences:

[¶]...[¶]

(8) Doing 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.

(9) Contempt of court or willful failure to comply with a court order.

(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

[¶]...[¶]

#### *Substantial Relationship*

5. The conduct underlying respondent's April 29, 2010 conviction, as set forth in Factual Findings 3 and 6, constituted an unlawful act and a threat of substantial injury to another person. His conviction for assault with force likely to cause great bodily injury (Factual Finding 3) is therefore substantially related to the qualifications, functions, and duties of a real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a)(8).

6. Counsel for complainant argues that respondent's failure to be present in court, as required by an earlier court order, when his case was called by the judge, resulting in the issuance of a bench warrant, as set forth in Factual Finding 4, constitutes the willful failure to comply with a court order. However, this conduct was not alleged in the Accusation as a basis for discipline, and there was no amendment to the Accusation made at hearing. Therefore, the conduct set forth in Factual Finding 4 cannot be used as a basis for discipline. Moreover, even if this conduct had been alleged as a basis for discipline, because respondent was actually at the hearing most of the morning and because his absence for a short time was



explained and the bench warrant dismissed when his counsel returned from vacation, the conduct does not constitute a willful failure to comply with a court order and therefore is not substantially related to the qualifications, functions, and duties of a real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a)(9).

7. Counsel for complainant also argues that respondent's conviction as set forth above in Factual Findings 3 and 6, in conjunction with his January 2009 fight (Factual Finding 8), constitutes a pattern of repeated and willful disregard for the law and is therefore substantially related to the qualifications, functions, and duties of a real estate salesperson under California Code of Regulations, title 10, section 2910, subdivision (a)(10). The January 2009 incident was not alleged as a basis for discipline in the Accusation in this case, there was no amendment to the Accusation, and there has been no determination or proof that respondent's conduct in fighting in January 2009 was unlawful. Therefore, the January 2009 incident cannot be used as a basis for discipline or as evidence of a pattern of repeated and willful disregard of the law. No basis for discipline exists under California Code of Regulations, title 10, section 2910, subdivision (a) (10).

#### *Cause for Discipline*

8. When all the evidence is considered, cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), was established by reason of Factual Findings 3 and 6, and Legal Conclusions 1 through 5, in that respondent was convicted of a crime and committed acts that are substantially related to the qualifications, functions and duties of a real estate licensee.

#### *Rehabilitation*

9. In California Code of Regulations, title 10, section 2912, the Department has set forth the criteria to be applied when reviewing whether a real estate license should be revoked when the licensee has been convicted of a crime.

10. Consideration of these criteria reveal that respondent has engaged in significant rehabilitation. It has been almost two years since the event underlying respondent's conviction, and he has been fully compliant with his probation. He has paid the fine and fees, and no restitution is owed. (Factual Finding 5.) While respondent has had only one conviction in the last 15 years, his admission that he engaged in another similar altercation earlier in 2009 is of concern. However, in recognition of the tension associated with his second job as a parking valet, respondent stopped working as a valet. He has a stable family life and fulfills his parental and familial obligations. (Factual Findings 10, 15 and 16.) Respondent provides meaningful service to the community through his church, workplace and support of his child's activities. (Factual Findings 12, 15 and 16.) He is in counseling to address his anger issues and learn different coping skills, and he is able to explain what he has learned. (Factual Findings 13 and 16.) Respondent has not had any complaints relating to his license as a real estate salesperson, and he is well regarded by his

clients and co-professionals. (Factual Findings 14 and 16.) Respondent's testimony regarding his acting in self-defense in the September 2009 altercation, and his explanation of the reason for his plea, are credible. (Factual Finding 6.) He also accepts responsibility for his part in the altercation, and he has undertaken a sincere change in attitude and behavior. The letters of others corroborate respondent's testimony regarding his rehabilitative efforts. (Factual Finding 16.)

### *Conclusion*

11. For the reasons stated above, it would not be contrary to the public interest, safety and welfare to permit respondent to retain his real estate salesperson license, with restrictions.

### ORDER

All licenses and licensing rights of Sean Douglas Schwilling under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

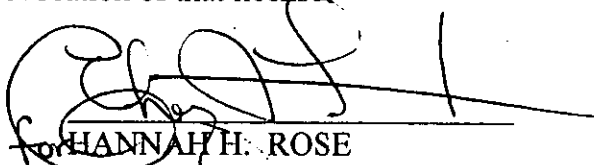
(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until 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.

6. Respondent shall continue to attend counseling or therapy with Tim Hui, MFT on a weekly basis, for one year, or until such time as Hui shall recommend termination of therapy, if less than one year, and shall provide documentation once every six months of his attendance. The documentation shall be sent to the Department, in writing, as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect. Respondent shall not have more than four excused absences from this program. Within six weeks of the issuance of a restricted license, respondent shall submit a statement signed by Tim Hui, MFT, that he has read the Decision that is the basis for the restricted license and agrees to provide the required documentation. Respondent's failure to timely file the statement or documentation of attendance 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 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.

DATED: June 27, 2011

  
HANNAH H. ROSE  
Administrative Law Judge  
Office of Administrative Hearings

FLAG

JASON D. LAZARK, Counsel (SBN 263714)  
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**FILED**

DEC 20 2010

DEPARTMENT OF REAL ESTATE

By L. Lazark

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	
	)	No. H-11043 SF
	)	
SEAN DOUGLAS SCHWILLING,	)	<u>ACCUSATION</u>
	)	
Respondent.	)	
	)	

The Complainant, E. J. HABERER, II, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SEAN DOUGLAS SCHWILLING (herein "Respondent"), is informed and alleges as follows:

1.

Respondent is presently licensed and/or has license rights under the Real Estate Law Part 1 of Division 4 of the Business and Professions Code (herein "the Code") as a real estate salesperson.

2.

On or about April 29, 2010, in the Superior Court of the State of California, County of San Francisco, Case No. 02436089, Respondent was convicted of violating Penal Code section 245(a)(1) (assault with force likely to cause great bodily injury), a misdemeanor which bears a substantial relationship under section 2910, title 10, California Code of the Regulations, to the qualifications, functions or duties of a real estate licensee.

3.

The facts alleged in Paragraph 2 above constitute grounds under sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under Part 1 of Division 4 of the Code.

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 Part 1 of Division 4 of the Code, and for such other and further relief as may be proper under the provisions of law.

  
E.J. HABERER, II  
Deputy Real Estate Commissioner

Dated at Oakland, California,  
this 30<sup>th</sup> day of November, 2010.