

**FILED**  
APR 18 2022  
DEPARTMENT OF REAL ESTATE  
By J. Taggart

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	
JACKY SHIUMAN CHOW,	)	No. H-12532 SF
	)	
Respondent.	)	OAH No. 2021060113
	)	

STIPULATION AND AGREEMENT  
AND DECISION AFTER REJECTION

This matter came to hearing before Michael C. Starkey, Administrative Law Judge, Office of Administrative Hearings, State of California, in Sacramento, California, on November 10, 2021.

Real Estate Counsel Kyle T. Jones represented Complainant, Stephanie Yee, in her official capacity as a Supervising Special Investigator with the Department of Real Estate. Respondent JACKY SHIUMAN CHOW was represented by attorney Brian Slome.

Evidence was received, the record was closed, and the matter was submitted for decision on November 10, 2021.

On December 9, 2021, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner ("Commissioner") declined to adopt as his

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1 Decision herein. Pursuant to Section 11517 of the Government Code of the State of California,  
2 Respondent was served with notice of the Commissioner's determination not to adopt the  
3 Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that  
4 the case would be decided by the Commissioner upon the record, the transcript of proceedings,  
5 and upon written argument offered by Respondent and Complainant.

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

8 IT IS HEREBY STIPULATED by and between Respondent and the Complainant,  
9 acting by and through Kyle T. Jones, Counsel for the Department, as follows for the purpose of  
10 settling and disposing of the Accusation filed by Complainant.

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

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

21 ORDER

22 Respondent's real estate salesperson license and license rights are revoked;  
23 provided, however, a restricted real estate salesperson license shall be issued to Respondent  
24 pursuant to Section 10156.5 of the Code if Respondent makes application thereof and pays to the  
25 Department the appropriate fee for the restricted license within ninety (90) days from the  
26 effective date of this Order. The restricted license issued to Respondent shall be subject to all of  
27 the provisions of Section 10156.7 of the Code and to the following limitations, conditions, and

1 restrictions imposed under authority of Section 10156.6 of the Code:

2           1.       The restricted license issued to Respondent may be suspended prior to  
3 hearing by order of the Real Estate Commissioner in the event of Respondent's conviction or  
4 plea of nolo contendere to a crime that is substantially related to Respondent's fitness or capacity  
5 as a real estate licensee.

6           2.       The restricted license issued to Respondent may be suspended prior to  
7 hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner  
8 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands  
9 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
10 license.

11           3.       Respondent shall not be eligible to apply for the issuance of an  
12 unrestricted real estate license nor the removal of any of the conditions, limitations, or  
13 restrictions attaching to the restricted license until two (2) years have elapsed from the date of  
14 issuance of the restricted license to Respondent.

15           4.       With the application for license, or with the application for transfer to a  
16 new employing broker, Respondent shall submit a statement signed by the prospective employing  
17 real estate broker on a form approved by the Department which shall certify as follows:

18                   (a) That the employing broker has read the Decision which is the basis  
19                   for the issuance of the restricted license; and

20                   (b) That the employing broker will carefully review all transaction  
21                   documents prepared by the restricted licensee and otherwise  
22                   exercise close supervision over the licensee's performance of acts  
23                   for which a license is required.

24           5.       Respondent shall, within nine (9) months from the effective date of this  
25 Order, present evidence satisfactory to the Commissioner that Respondent has, since the most  
26 recent issuance of an original or renewal real estate license, taken and successfully completed the  
27 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, Respondent's real estate license shall automatically be suspended until Respondent presents evidence satisfactory to the Commissioner of having taken and successfully completed the continuing education requirements. Proof of completion of the continuing education courses must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

6. Respondent shall notify the Commissioner in writing within seventy-two (72) hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, P.O. 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 \$2,555.95 to the Department for the costs of investigation and enforcement of this matter. Respondent's failure to pay the Department shall constitute an independent violation of the terms of the restricted license and shall be grounds for the immediate suspension or revocation of that license. Said payment shall be in the form of a cashier's check or certified check made payable to the Real Estate Fund. Said check must be received by the Department prior to the effective date of the order in this matter at the following address: Department of Real Estate, Post office Box 137007, Sacramento, CA 95813-7007.

2/17/22

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DATED

*Kyle T. Jones*

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KYLE T. JONES, Counsel  
DEPARTMENT OF REAL ESTATE

\* \* \*

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

1  
2 Feb 4, 2022  
3 DATED

JACKY SHIUMAN CHOW  
Respondent

4 \*\*\*

5 I have reviewed the Stipulation and Agreement as to form and content and have  
6 advised my client accordingly.

7 Feb. 14, 2022  
8 DATED

Brian S. SLOME  
BRIAN SLOME  
Attorney for Respondent,

10 DECISION AND ORDER

11 The foregoing Stipulation and Agreement and Decision After Rejection is hereby  
12 adopted by the Real Estate Commissioner as his Decision and Order.

13 This Decision and Order shall become effective at 12 o'clock noon on  
14 MAY 09 2022

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16 IT IS SO ORDERED 4.14.22

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18 DOUGLAS R. McCAULEY  
19 REAL ESTATE COMMISSIONER

20 Douglas R. McCauley  
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**FILED**  
**JAN 20 2022**  
**DEPARTMENT OF REAL ESTATE**  
By J. Tassone

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	DRE No. H-12532 SF
	)	
JACKY SHIUMAN CHOW,	)	OAH No. 2021060113
	)	
Respondent.	)	

NOTICE

TO: JACKY SHIUMAN CHOW, Respondent, and JESSICA BECKWITH, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated December 9, 2021, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated December 9, 2021, 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 including the transcript of the proceedings held on Wednesday, November 10, 2021, 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, November 10, 2021, at the

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

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

6 DATED: 1.14.22

7 DOUGLAS R. McCAULEY  
8 REAL ESTATE COMMISSIONER

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

**FILED**

**JAN 07 2022**

DEPARTMENT OF REAL ESTATE  
By K. Knapp

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

**JACKY SHIUMAN CHOW,**

**Respondent.**

**Case No. H-12532 SF**

**OAH No. 2021060113**

**PROPOSED DECISION**

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on November 10, 2021, via videoconference and telephone.

Counsel Kyle T. Jones represented complainant Stephanie Yee, Supervising Special Investigator, State of California, Department of Real Estate.

Attorney Brian Slome represented respondent Jacky Shiuman Chow, who was present.

The record was held open for complainant to submit a certified copy of respondent's recent license renewal application and for respondent to file a response. These documents were timely received and marked as Exhibits 10 and KK, respectively.



Exhibit 10 was admitted into evidence. The record closed and the matter was submitted on November 22, 2021.

## **FACTUAL FINDINGS**

1. On April 24, 1989, the Department of Real Estate (Department) issued a real estate salesperson license to respondent Jacky Shiuman Chow. That license was in effect at all relevant times and will expire on May 28, 2025, unless renewed. There have been no prior disciplinary actions against respondent.

2. On May 10, 2021, complainant Stephanie Yee, acting in her official capacity as a Supervising Special Investigator, State of California, Department of Real Estate (Department), issued the accusation. It was served upon respondent on May 12, 2021. Complainant alleges that respondent was convicted in December 2018 of two alcohol-related driving offenses, including hit and run; failed to report the convictions; and that those alleged facts constitute cause to discipline his salesperson license. Complainant also seeks to recover the costs of investigation and prosecution of this matter. Respondent timely filed a notice of defense and a statement generally denying each allegation of the accusation and purporting to reserve the right to assert affirmative defenses, but did not assert any affirmative defenses within 15 days of service of the accusation. This proceeding followed.

### **Standard of Proof**

3. The standard of proof applicable to prove cause for discipline of a license depends on whether the license is determined to be a professional license (clear and convincing proof to a reasonable certainty) or a non-professional license (preponderance of the evidence). That determination depends on the amount of

education, training, or work entailed in obtaining the license at issue. (See *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1892-95.) Here, the applicable standard of proof is not clear and neither party presented evidence or argument on the issue. However, this issue is not dispositive because the facts of this matter are largely undisputed and Factual Findings 5 through 7 and 10 were proven by clear and convincing proof to a reasonable certainty.

4. If a respondent contends mitigation or rehabilitation, it is his or her burden to prove that contention by a preponderance of the evidence. (*Whetstone v. Board of Dental Examiners of Cal.* (1927) 87 Cal.App. 156, 164; Evid. Code, § 115.)

### **Criminal Convictions**

5. On December 28, 2018, respondent was convicted in the Superior Court of California, County of Sonoma, upon his plea of no contest, of violations of Vehicle Code sections 20002, subdivision (a) (hit and run), and 23152, subdivision (b) (driving with a blood alcohol concentration (BAC) of 0.08 percent or greater), misdemeanors. Imposition of sentence was suspended and respondent was placed on informal probation for a term of 36 months, on numerous conditions, including that he serve 20 days in a work release program; complete a three-month first-offender drunk driving program; and pay fines and fees.

6. The facts and circumstances leading to these convictions are that, on August 18, 2018, at approximately 3:30 p.m., respondent was driving his vehicle on a highway in Petaluma. Respondent's vehicle struck another vehicle, causing damage. Respondent did not pull over or exchange information. The driver of the other vehicle reported the hit-and-run collision to the Petaluma Police Department. Officers were dispatched. An officer observed respondent's vehicle travelling approximately 60 miles

per hour in a 30 mile per hour zone. Respondent's vehicle collided into a parked box truck. Respondent attempted to reverse his vehicle away from the truck and the officer used his patrol vehicle to prevent respondent from doing so. The officer took respondent into custody and observed numerous signs that respondent was under the influence of alcohol. Respondent was unable to follow directions to complete field sobriety tests. The result of a passive alcohol screening administered to respondent at 3:49 p.m. was 0.16 percent BAC. Respondent was arrested for driving under the influence and hit and run.

### **Failure to Report Convictions**

7. Respondent did not notify the Department of his December 28, 2018 criminal convictions within 30 days. His first report to the Department of his arrest or convictions was in response to an April 10, 2019 letter from the Department asking for information about the convictions.

### **Respondent's Evidence**

8. Respondent testified at hearing. He is 55 years old. He was born in Hong Kong and came to California for college in 1984. He became licensed as a real estate salesperson during his first year in a Ph.D. program. He ultimately earned a doctoral degree in electrical engineering and began working for a startup company specializing in high-speed internet technology. After 15 years working very long hours in this field, he felt "burned out" and switched to a full-time career in real estate. Respondent primarily represents buyers and sellers of San Francisco residential properties. He does not advertise, instead relying on referrals from past clients. In 2009, he joined Alain Pinel Realtors (Alain Pinel). In 2019 this firm was acquired by Compass, Inc. (Compass) and respondent became an employee of Compass. Respondent continues to work full

time as a real estate salesperson. Respondent has no prior record of professional discipline.

9. With regard to his 2018 criminal convictions, respondent reports that he attended an event with live music, food and wine tasting. He admits that he drank too much alcohol to safely drive, but decided to pick up his wife from work because she is unable to drive. Respondent reports that he does not remember many details of the incident but remembers being detained by the police.

10. Respondent contends that he was unaware that he collided with the first vehicle, probably because he was intoxicated. He reports that he did not intentionally flee the scene without exchanging information with the driver. He testified that he pleaded no contest because he was too impaired to know what happened. He maintains that he would have pulled over if he knew that he had hit another vehicle. Regardless, respondent cannot impeach his criminal convictions in this proceeding. (*Arneson v. Fox* (1980) 28 Cal. 3d. 440, 449.) The convictions are conclusive evidence of his guilt of the offenses charged. (*Ibid*) The elements of a violation of Vehicle Code section 20002, subdivision (a), are that the defendant: "(1) knew he or she was involved in an accident; (2) knew damage resulted from the accident; and (3) knowingly and willfully left the scene of the accident (4) without giving the required information to the other driver(s)." (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1123, fn. 10, citing *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 21; see 2 CALCRIM 2150.) Accordingly, for the purposes of this proceeding, it is found that on August 18, 2018, respondent knew that he was involved in an accident resulting in damage and knowingly and willfully left without giving the required information to the other driver (in addition to driving with a BAC of 0.08 percent or greater).

11. Respondent appears genuinely remorseful for his alcohol-related driving offenses and determined not to repeat them. He credibly testified that he has not consumed alcohol since this incident. He informed his friends and relatives that he would no longer consume alcohol. His claim of abstinence was corroborated by witnesses who subsequently observed him at social events where alcohol was being consumed. Respondent reports that the things he learned in the first offender program reinforced his decision to quit drinking.

12. Respondent has fully complied with all terms of his criminal probation, including completing the first offender program and satisfying the work release condition by completing 64 hours of community service. Respondent's probation is set to end on December 28, 2021, and he plans to immediately petition for withdrawal of his pleas and dismissal of the charges pursuant to Penal Code section 1203.4 (commonly referred to as "expungement"). His driving privileges have been fully restored.

13. After respondent was contacted by the Department regarding his convictions, he cooperated fully with the Board's investigation, including participating in an interview on November 19, 2019. Respondent and his employer are willing to comply with any additional supervision requirements, should he be issued a restricted license.

14. Aimee Arost testified at hearing. She has been respondent's supervisor since Compass acquired Alain Pinel. Arost reports that respondent is "very rules oriented" and comes to her with any concerns. He receives regular risk management and technical training. Arost is unaware of any client complaints about respondent. She has never seen him drink at work, violate Compass's rules, or receive any complaints from his coworkers. Arost is aware of this accusation, but based upon her

knowledge of respondent, she is not concerned about his professional behavior. She believes he is remorseful and rehabilitated.

15. Thomas Moeller Jensen testified at hearing and wrote a letter regarding respondent's character. Jensen is an engineer and a client of respondent, who has represented him in three separate real estate transactions over the last 10 years. Jensen reports that he knows respondent "pretty well." He regards respondent as a "stand up guy." As a salesperson, he believes respondent is honest, thorough, trustworthy, and skilled. He reports that respondent has always been transparent, gives pros and cons, is a good negotiator, and is not afraid to walk away from a transaction if against the client's interest. Jensen has socialized with respondent since the 2018 offenses and reports that respondent no longer drinks alcohol.

16. Evan E. Zelig testified at hearing. Zelig represented respondent in the 2018 criminal proceedings. He reports that respondent was remorseful, contrite, and concerned about the damage to other vehicles. He reports that respondent never denied responsibility for his offenses.

17. Respondent submitted character reference letters from a former professor/coworker, another coworker, a longtime friend, another former client, and his wife. The authors regard respondent as an honest, hardworking, and conscientious person of good character. Several of them reported that they have observed that he is remorseful regarding his offenses and that he no longer consumes alcohol.

## **Costs**

18. Complainant requests \$2,555.95 in investigation and enforcement costs, consisting of \$2,151 in investigation costs, and \$404.95 in prosecution costs reflecting time spent on this matter by counsel for the Department. That request is supported by

sworn statements that comply with the requirements of California Code of Regulations, title 1, section 1042. Complainant is found to have reasonably incurred \$2,555.95 in the investigation and enforcement of this matter.

## **LEGAL CONCLUSIONS**

1. Respondent argues that this proceeding should be dismissed under the laches doctrine, based on the assertion that the Department did not diligently prosecute it. Respondent argues that the Department was aware of respondent's convictions as early as February 2019, had all the information required to proceed with this action in November 2019, and respondent detrimentally relied on the Department's delay in prosecution by continuing to invest his time in his real estate career. This argument is rejected because pursuant to Government Code section 11506, subdivision (a)(5), respondent waived this affirmative defense. He offers no authority that the purported reservation of the right to later assert such defenses was effective. Moreover, respondent did not show prejudice. Being allowed to continue to earn money as a licensee is typically considered a benefit and respondent did not present evidence of any significant new investment in his real estate career between November 2019 and May 12, 2021, the date the accusation was served upon him. Further, the delay provided respondent with additional time to show rehabilitation from his offenses.

### **First Cause for Discipline (Substantially Related Conviction)**

2. The Department may suspend or revoke the license of a real estate licensee who has been convicted of a crime substantially related to the qualifications, functions, or duties of a real estate licensee. (Bus. & Prof. Code, §§ 490, subd. (a),



10177, subd. (b) [all subsequent statutory references are to the Business and Professions Code unless stated otherwise].) The criteria of substantial relationship are set forth in California Code of Regulations, title 10, section 2910. Respondent argues that his offenses are not substantially related to the qualifications, functions, or duties of a real estate licensee because he did not suffer "[t]wo or more convictions involving the consumption of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs" as set forth in subdivision (a)(11). However, respondent did suffer two convictions. (Factual Finding 5.) One offense is expressly related to both alcohol and driving (driving with a BAC of 0.08 percent or greater). The other offense (hit and run) is expressly related to driving and in this case—by respondent's own testimony—was the result of his impairment due to alcohol. Moreover, the section 2910 criteria are not exhaustive. In addition to driving with a BAC approximately double the legal limit, respondent knew that he was involved in an accident resulting in damage and knowingly and willfully left the scene without giving the required information to the other driver. (Factual Finding 10.) This suggests an intention to unlawfully escape responsibility for the harm he caused to another. Taken together, respondent's offenses are substantially related to the qualifications, functions, or duties of a real estate licensee. Cause exists to suspend or revoke respondent's real estate license under sections 490, subdivision (a), and 10177, subdivision (b).

### **Second Cause for Discipline (Fraud or Dishonest Dealing)**

3. The Department may suspend or revoke the license of a real estate licensee who has engaged in engaged in "any other conduct . . . that constitutes fraud or dishonest dealing." (§ 10177, subd. (j).) Respondent correctly argues that his hit and run offense did not involve an attempt to induce reliance, which is an element of fraud.

However, respondent's hit and run offense constitutes dishonest dealing under subdivision (j). "No doubt the word 'honesty' as used in these sections has the broadest possible meaning." (*Rhoades v. Savage* (1963) 219 Cal.App.2d 294, 299.) It has been defined to include: fairness and straightforwardness of conduct and speech; integrity; truthfulness; and freedom from fraud. (*Ibid.*) California courts have described the term dishonesty within various statutory schemes as involving: "deception, betrayal, faithlessness; absence of integrity; a disposition to cheat, deceive, or defraud." (*Chodur v. Edmonds* (1985) 174 Cal.App.3d 565, 570.) Further, by the term "any other conduct" the Legislature clarified that this provision is not limited to conduct committed in the course of licensed activity. If successful, respondent's hit and run offense would have allowed him to evade liability for the damage he caused to the other driver's vehicle. (Factual Findings 5, 6 & 10.) This offense suggests an absence of fairness, integrity, and a disposition to cheat. It constitutes dishonest dealing under subdivision (j). Cause exists to suspend or revoke respondent's real estate license under section 10177, subdivision (j).

### **Third Cause for Discipline (Failure to Timely Report Conviction)**

4. The Department may suspend or revoke the license of a real estate licensee who fails to report a criminal conviction within 30 days. (§§ 10177, subd. (d), 10186.2.) Respondent failed to report his December 28, 2018 criminal convictions within 30 days. (Factual Finding 7.) Cause exists to suspend or revoke respondent's real estate license pursuant to sections 10177, subdivision (d), and 10186.2.

### **Determination of Discipline**

5. Cause for discipline having been established, the remaining issue is what level of discipline is required to protect the public. Rehabilitation factors include the

time elapsed, abstinence from the use of alcohol for not less than two years if the criminal conviction was attributable in part to the use of alcohol, and change in attitude. (Cal. Code Regs., tit. 10, § 2912.) Complainant argues for outright revocation and respondent argues that public reproof is the most severe discipline warranted.

Respondent's offenses were serious and involved a threat to the public safety as well as an element of dishonesty. Respondent also failed to report the convictions as required by statute. Accordingly, public reproof does not provide adequate protection of the public interest. However, respondent has no prior professional discipline, and he has shown significant rehabilitation. The offenses occurred more than three years ago. Respondent has fully complied with all terms of his criminal probation and plans to petition for expungement as soon as possible. Respondent appears genuinely remorseful for his offenses and determined not to repeat them. He credibly testified that he has not consumed alcohol since this incident and this testimony was corroborated by several witnesses. He provided significant testimonial and documentary evidence of his change in attitude and his generally good character. Respondent appears to be a good candidate for a restricted license. The public will be adequately protected by revocation of respondent's license and issuance of a restricted license for a period of two years.

## **Costs**

6. Pursuant to Business and Professions Code section 125.3, complainant may request an administrative law judge to order a licensee found to have violated the licensing act to pay an amount that does not exceed the reasonable costs of investigation and enforcement. Complainant proved reasonable costs of enforcement in the amount of \$2,555.95. (Factual Finding 18.)

7. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth guidelines for determining whether costs should be assessed in the particular circumstances of each case. The Department must consider whether to do so will unfairly penalize the licensee who has committed misconduct, but who has used the hearing process to obtain a dismissal or a reduction in the severity of the discipline imposed, as well as whether the licensee will be financially able to pay the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a licensee engaged in relatively innocuous misconduct. (*Id.* at pp. 44–45.) No cause for a reduction of the cost award was established.

### ORDER

All licenses and licensing rights of respondent Jacky Shiuman Chow 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

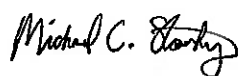
(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

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 pay the Department of Real Estate \$2,555.95 for the reasonable costs of investigation and enforcement of this matter.

DATE: 12/09/2021



MICHAEL C. STARKEY

Administrative Law Judge

Office of Administrative Hearings