

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:

CYRUS ELIJAH AGBONTAEN PALMER,
Respondent.

) DRE No. H-12694 SF

) OAH No. 2024060643

FILED

JAN 09 2025

DEPARTMENT OF REAL ESTATE
By B. Nicholas

DECISION

The Proposed Decision dated November 19, 2024, 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.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

1. On Page 9, Paragraph 4, "...by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000" is corrected to: "...by sending a certified letter to the Commissioner at the Department of Real Estate, 651 Bannon Street, Suite 500, Sacramento, CA 95811".

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted salesperson license is granted to Respondent.

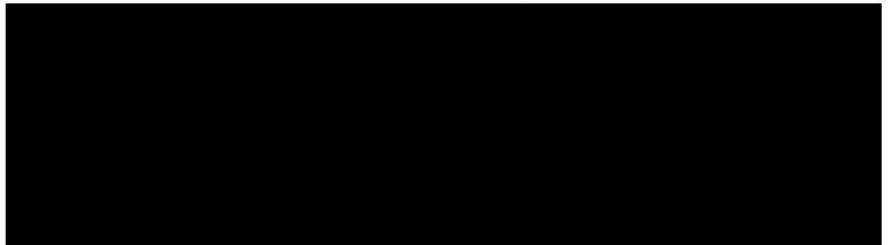
Pursuant to Government Code Section 11521, the Department of Real Estate (the Department) may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire thirty (30) days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 JAN 30 2025.

IT IS SO ORDERED 1/6/2025

Chika Sunquist
REAL ESTATE COMMISSIONER



FILED

DEC 17 2024

DEPARTMENT OF REAL ESTATE
By B. Meadows

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

In the Matter of the Accusation Against:

**CYRUS ELIJAH AGBONTAEN PALMER,
Real Estate Salesperson License No. S/02081779
Respondent.**

Agency Case No. H-12694 SF

OAH No. 2024060643

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on November 7, 2024, by telephone and videoconference.

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

Respondent Cyrus Elijah Agbontaen Palmer represented himself.

The matter was submitted for decision on November 7, 2024.

FACTUAL FINDINGS

1. The Department of Real Estate issued Real Estate Salesperson License Number S/02081779 to respondent Cyrus Elijah Agbontaen Palmer on June 5, 2020. The license expired without renewal on June 4, 2024. Respondent intends to renew his license if he remains eligible after this disciplinary proceeding to do so.

2. Acting in her official capacity as a Supervising Special Investigator for the Department, complainant Stephanie Yee filed an accusation against respondent on August 28, 2023. Respondent returned a timely notice of defense.

3. Complainant alleges that respondent was convicted of a crime on July 19, 2021, that bears a substantial relationship to his professional responsibilities. Complainant alleges further that respondent failed to report these charges or the resulting conviction timely to the Department. On these bases, complainant seeks to restrict, suspend, or revoke respondent's license.

Criminal History

4. On October 29, 2015, respondent was convicted in the San Francisco Superior Court of a misdemeanor violation of Penal Code section 25850, subdivision (a) (carrying a loaded firearm in public in a city). The court ordered respondent to spend three years on probation, including performing 100 hours of community service.

5. The crime described in Finding 4 occurred on March 12, 2014. Respondent and some companions had come to San Francisco expecting conflict with others. They had at least one loaded handgun among them, which respondent held. When the conflict respondent and his companions expected occurred, police chased and detained respondent and found the handgun.

6. On July 19, 2021, respondent was convicted in the Merced County Superior Court of a felony violation of Penal Code section 29820, subdivision (b) (possessing a firearm while under legal prohibition against possessing a firearm). The court ordered respondent to spend two years on probation, and to pay court fees.

7. The crime described in Finding 6 occurred on July 2, 2020. Respondent was alone at his girlfriend's home. His girlfriend and her brother were at a nearby hospital with their mother, who had suffered a catastrophic accident. Respondent had known his girlfriend for several years, and had a very close parental relationship with her mother as well. He was experiencing intense grief over the mother's impending death, and had consumed a significant amount of vodka. He does not recall what he did after drinking the vodka, but police came to the house after neighbors reported having heard gunshots. They found a handgun in the house's living room, where respondent seemed to have been sitting, with spent shell casings in the living room and also in the back yard. Although the police officers determined that respondent's girlfriend owned the handgun, they also determined that respondent could not lawfully possess a firearm because of his juvenile criminal history.

8. Officers did not take respondent into custody on July 2, 2020. The People filed a criminal complaint against him on September 1, 2020, however, charging him with a felony violation of Penal Code section 29820, subdivision (b), because of his actions on July 2.

9. Respondent has completed his probation and paid all fees. He testified, credibly but without supporting documentation, that the Merced County Superior Court has entered an order reclassifying his crime from a felony to a misdemeanor.

Communications With the Department

10. The Department licensed respondent despite the conviction history summarized in Finding 4.

11. Respondent did not report to the Department that the People had charged him with a felony, as described in Finding 8. He also did not report to the Department that the Merced County Superior Court had convicted him of a felony, as described in Finding 6.

12. Upon inquiry from the Department, respondent provided written statements in June 2022 about the convictions described in Findings 4 and 6. Despite the Department's request for a "complete description of the facts and circumstances that led to your conviction," his statements omitted and misstated key information.

a. As to the crime described in Finding 4, respondent stated only that "I was in fear of my own safety/life no one was injured or hurt during this time."

b. As to the crime described in Finding 6, respondent stated, "A family member was in possession of a firearm around me without my knowledge. No crime was committed and no one was hurt. This occurred in that family member's home."

13. Respondent offered no explanation for his failure to have reported either the felony charges described in Finding 8 or the conviction described in Finding 6 to the department. He also did not address why his written description to the Department of his conduct on July 2, 2020, differed so markedly from the facts as summarized in Finding 7.

Additional Evidence

14. Since he received his real estate salesperson license, respondent has participated in only a few residential real estate transactions. He aspires, however, to obtain a real estate broker's license and to open a business providing real estate transaction assistance and property management. Respondent testified, credibly but without supporting documentation, that he has completed the educational requirements for a broker's license.

15. Respondent remains in a domestic partnership with the girlfriend referenced in Finding 7. He lives part-time with her in the Central Valley and part-time in Sunnyvale. They are expecting their first child.

16. Respondent works as a case manager for an agency that provides transitional housing and social services for adolescents and young adults. He also has volunteered in the past for holiday charitable drives and public meals.

17. According to respondent, he did not consume alcohol frequently in 2020, and now does not use it at all; his heavy drinking during the incident described in Finding 7 was very unusual. He testified, however, that he has a "cannabis card." Respondent also testified that he sometimes struggles to keep anxiety and impulsive behavior in check.

Costs

18. The Department has incurred \$495.00 in attorneys' fees, and \$1,657.60 in investigation costs. The Department's claim for these costs is supported by declarations that comply with California Code of Regulations, title 1, section 1042. The total cost amount (\$2,152.60) is reasonable.

LEGAL CONCLUSIONS

1. The Real Estate Commissioner (Bus. & Prof. Code, § 10050) may suspend or revoke a real estate salesperson's license only if clear and convincing evidence proves the facts supporting discipline. The factual findings above rest on clear and convincing evidence.

Causes for Discipline

2. Business and Professions Code sections 490 and 10177, subdivision (b), authorize the Commissioner to suspend or revoke the license of a licensee who has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a licensee. According to California Code of Regulations, title 10, section 2910, subdivision (a)(9), a crime that involves failing to comply with a court order relates substantially to real estate practice. The conviction described in Finding 6 is for such a crime, and constitutes cause for discipline under Business and Professions Code sections 490 and 10177, subdivision (b).

3. Business and Professions Code sections 10177, subdivision (d), and 10186.2 authorize the Commissioner to suspend or revoke the license of a licensee who has failed to make a timely report to the Department about felony criminal charges or any criminal conviction. The matters stated in Findings 6, 8, and 11 constitute cause under these statutes for discipline against respondent.

Disciplinary Considerations

4. The criminal conduct described in Finding 7 occurred under circumstances of extreme stress, and did not reflect any deliberate choice by respondent to break the law by handling a firearm.

5. Respondent's failure to report either the charges or the conviction that arose from this conduct reflects inattention to his responsibilities as a real estate professional. Moreover, the incomplete and inaccurate reporting described in Finding 12 exacerbates this misconduct. A real estate salesperson's key duties include assisting sellers and buyers in seeking and disclosing information fairly and completely, even when that information is adverse to the client's or salesperson's interests.

6. Respondent's conduct does not show his clear unfitness to continue as a real estate salesperson. It does justify a period during which his supervising broker and the Commissioner should monitor his professional practice to ensure that he can fulfill all responsibilities safely. Three years of restricted licensure will permit the Commissioner to confirm that respondent develops his professional skills and ethics in a manner consistent with public safety.

Costs

7. The Commissioner may require a licensee found to have committed a violation of the licensing act to pay the Department the reasonable costs of investigating and prosecuting the case. (Bus. & Prof. Code, § 10106.) The Department's request for reimbursement for \$2,152.60 in enforcement costs in this case is justified, and as set forth in Finding 20, is reasonable.

8. In *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court set forth the standards by which a licensing agency must exercise its discretion to reduce or eliminate cost awards, to ensure that the agency does not deter licensees with potentially meritorious claims from exercising their administrative hearing rights. The court held that a licensing board requesting reimbursement for costs relating to a hearing must consider the licensee's "subjective

good faith belief" in the merits of his position and whether the licensee has raised a "colorable challenge" to the proposed discipline. The board also must consider whether the licensee will be "financially able to make later payments." Last, the board may not assess full costs of investigation and enforcement when it has conducted a "disproportionately large investigation." These factors have been considered, and justify a cost reduction in this matter to \$1,000.

ORDER

All licenses and licensing rights under the Real Estate Law of respondent Cyrus Elijah Agbontaen Palmer, Salesperson License Number S/02081779, are revoked; provided, however, that a restricted real estate salesperson license shall be issued to Respondent in accordance with section 10156.5 of the Business and Professions Code if respondent makes application for such a restricted license and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days after 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 three years have elapsed from the effective date of this decision.

4. 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.

5. Respondent shall submit with any application for license that identifies an employing broker, or with 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. The statement shall certify:

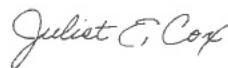
(a) That the employing broker has read this decision of the Commissioner granting the right to a restricted license; and

(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.

6. Within nine months after the effective date of this decision, respondent must 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.

7. Before issuance of the restricted license, and as a condition of issuance of the restricted license, respondent must reimburse the Department \$1,000 toward its enforcement costs in this matter. In the alternative, the Department may condition issuance of the restricted license on respondent's agreement to a payment plan that will result in payment of \$1,000 in reimbursement to the Department before the end of the restricted license period. Violation of any such payment plan terms will constitute cause for the Department to suspend the restricted license in accordance with Paragraph 2 of this order.

DATE: 11/19/2024



JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

FILED

JUN 18 2024

DEPARTMENT OF REAL ESTATE

By B. McWlas

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)
CYRUS ELIJAH AGBONTAEN) DRE No. H-12694 SF
PALMER,)
Respondent.)

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On June 4, 2024, a Decision was rendered revoking the real estate salesperson license of Respondent, CYRUS ELIJAH AGBONTAEN PALMER, effective June 24, 2024.

On June 14, 2024, good cause was presented to vacate the Decision of June 4, 2024, and to have the matter remanded to the Office of Administrative Hearings as a contested matter.

///

///

///

///

///

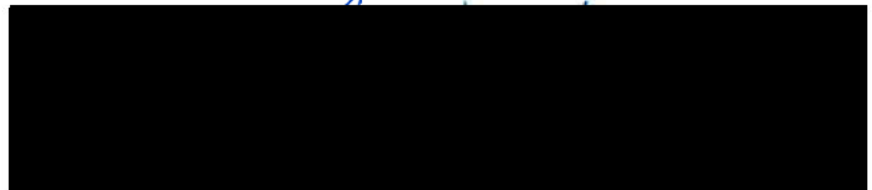
///

1 NOW, THEREFORE, IT IS ORDERED that the Decision of June 4, 2024, is
2 vacated and that the Matter of the Accusation filed on August 28, 2023, is remanded to the Office
3 of Administrative Hearings.

4 This Order shall be effective immediately.

5 DATED: 6/17/2024.

6 Chika Sunquist
7 REAL ESTATE COMMISSIONER



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:) DRE No. H-12694 SF
)
CYRUS ELIJAH AGBONTAEN)
PALMER,)
Respondent.)

FILED
JUN 04 2024
DEPARTMENT OF REAL ESTATE
By J. Taggart

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on , and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, CYRUS ELIJAH AGBONTAEN PALMER ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses and/or license rights on grounds of conviction of a crime that is substantially related to the qualifications, functions or duties of a real estate licensee and Respondent's failure to timely report said conviction.

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On August 28, 2023, Stephanie Yee, made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on August 28, 2023.

On April 16, 2024, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

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

3.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on August 28, 2023, which is incorporated herein as part of this Decision.

FAILURE TO DISCLOSE

4.

A diligent search was made of the records of the Department relating to Respondent's real estate salesperson license No. 02081779. No record or written notice was received from Respondent notifying the Department, in writing, of any arrest, conviction, indictment or license disciplinary action.

DETERMINATION OF ISSUES

1.

The allegations contained in the Accusation, constitute cause under Sections 490 and 10177(b) (conviction of a crime substantially related to the qualifications, functions or duties of a real estate licensee) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

2.

The allegation in paragraph 4, above, constitutes cause under Sections 10177(d) (willful disregard or violation of the Real Estate Law) and 10186.2 (failure to disclose) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

3.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent CYRUS ELIJAH AGBONTAEN PALMER under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on JUN 24 2024.

DATED: 5/29/2024

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER

[Redacted Signature]

By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

1 Department of Real Estate
2 1651 Exposition, Blvd.
3 Sacramento, CA, 95815

FILED

APR 16 2024

DEPARTMENT OF REAL ESTATE
By B. Nicholas

4
5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. ***H-12694 SF***
12)
13 CYRUS AGBONTAEN PALMER,) **DEFAULT ORDER**
14)
Respondent.)

15 Respondent CYRUS AGBONTAEN PALMER, having failed to file a
16 Notice of Defense within the time required by Section 11506 of the Government Code, is
17 now in default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED APRIL 16, 2024.

19 CHIKA SUNQUIST
20 REAL ESTATE COMMISSIONER

21 Tricia D. Parkhurst
22 Tricia D. Parkhurst (Apr 16, 2024 08:52 PDT)

23 By: Tricia D. Parkhurst
24 Assistant Commissioner, Enforcement
25
26
27