

Pursuant to Government Code Section 11521, the Department of Real Estate 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.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on 5/28/26.

IT IS SO ORDERED May 4, 2026

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER



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

In the Matter of the Application of:

KERRY ANNE BARNES, Respondent.

Agency Case No. H-12794 SF

OAH No. 2026010181

PROPOSED DECISION

Administrative Law Judge Michelle Dylan, State of California, Office of Administrative Hearings, heard this matter on January 23, 2026, via videoconference.

Counsel Kathy Yi represented complainant Stephanie Yee, Supervising Special Investigator for the Department of Real Estate of the State of California.

Respondent Kerry Anne Barnes was present at hearing, representing herself.

The record was held open until January 31, 2026, for respondent to submit letters of reference, and until February 6, 2026, for complainant to submit a response, if any. Respondent's submission is admitted into evidence as Exhibit H. Complainant did not submit a response. The record closed and the matter was submitted for decision on February 6, 2026.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 24, 2025, respondent applied to the Department of Real Estate (Department) to take the real estate salesperson examination and for a real estate salesperson license.

2. On December 8, 2025, complainant Stephanie Yee filed the statement of issues in her official capacity as Supervising Special Investigator for the Department. Complainant seeks to deny the application based on respondent's criminal conviction.

Criminal Conviction

3. On August 19, 2021, respondent was convicted in the Superior Court of California, County of Kern, by a plea of no contest entered on July 13, 2021, of a violation of Vehicle Code section 23153, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or more (DUI) causing bodily injury, a felony, with an enhancement under Vehicle Code section 23578 for driving with a BAC of 0.15 percent or more. Imposition of sentence was suspended, and respondent was placed on formal probation for three years with terms and conditions that included serving three days in the county jail, completing 400 hours of community service, abstaining from intoxicating beverages, attending a three month first offender drinking and driving program, completion of outpatient substance abuse counseling, completion of effective parenting classes, obeying all laws, submitting to chemical testing as directed by a peace officer or probation officer, not drinking and driving with any measurable amount of alcohol in her blood, and paying fines, fees, and restitution. Respondent

was also advised by the court that the DMV would suspend her driver's license for one year.

4. The facts and circumstances underlying the offense occurred on August 21, 2016, shortly after 6:00 p.m. Respondent and her husband were driving a Ford truck with a cab-over camper from Healdsburg to Las Vegas to drop off respondent's two minor stepchildren with their mother after having spent the summer with them. Respondent consumed alcohol earlier in the day. Respondent slept most of the way and "took over driving" in Bakersfield. She drove over the mountains and into the Mojave desert. She was attempting to pass a semi track tractor (semi) when she lost control of her vehicle and ran off the road. The vehicle overturned multiple times, the roof of the vehicle was folded inward, and the camper was detached from the vehicle and rolled over. There were no seatbelts installed in the camper. Respondent's stepdaughter and husband were unrestrained and ejected from the camper due to the collision. Respondent's stepdaughter, husband, and stepson sustained injuries in the accident including multiple lacerations, stitches, and/or swelling. Respondent had a deep avulsion to her left elbow and a contusion on her head.

5. California Highway Patrol officers arrived at the scene around 6:30 p.m. Respondent was being treated by fire department personnel. At approximately 6:45 p.m., an officer contacted respondent while she was lying on a gurney in the back of the ambulance. The officer noted that she had a strong odor of alcohol on her breath and red and watery eyes. Respondent told the officer that she was driving in the number one lane at 65 to 70 miles per hour when she felt a gust of wind push the vehicle toward the right. She tried to correct but lost control of the vehicle as it started to fishtail and then overturn multiple times. Respondent stated that she had one Coors beer two hours earlier. Respondent's husband stated that he and respondent had

several mixed drinks the night before. A witness who was traveling behind respondent at the time of the accident stated that once respondent's vehicle pulled ahead of the semi it appeared that it was struck by a gust of wind causing the camper portion of the vehicle to drift to the left. It appeared that respondent tried to correct by steering the vehicle toward the right and the left but overcorrected which increased the swaying motion of the camper causing the vehicle to veer off the road and overturn.

6. Respondent and her family were transported by ambulance to the hospital for their injuries. Respondent was arrested for driving under the influence of alcohol shortly after 8:00 p.m. and she submitted to a blood test. She was issued a release from custody form and advised that charges would be filed against her at a later time. The results of the blood test noted her blood alcohol level at above 0.15 percent.

7. Respondent was subsequently arrested on a warrant, and her arraignment was held in the Kern County Superior Court in January 2018. Respondent reported that she did not receive notice of her court date.

8. Respondent entered a plea in this matter in July 2021 and was sentenced in August 2021 as set forth in Factual Finding 3.

9. On May 17, 2022, pursuant to a case transfer request under Penal Code section 1203.9, the Kern County Superior Court transferred the jurisdiction of the above case to Sonoma County Superior Court.

10. On December 22, 2023, a warrant was issued for respondent for violating the terms of her probation as discussed further in Factual Finding 19. Respondent went into custody in January 2024 and the warrant was recalled.

11. On January 30, 2024, in the Superior Court, County of Sonoma, respondent admitted that she had violated her probation. On March 26, 2024, the court amended respondent's sentence by sentencing respondent to 161 days in custody, with credit for time served of 81 actual days plus 80 conduct credits, vacated the previously ordered community service hours, and extended respondent's formal probation on the same conditions to November 23, 2024.

Respondent's Evidence

12. Respondent testified at hearing. At the administrative hearing, and in her written explanation and letter to the Department, respondent stated that the incident that forms the basis of the conviction was "an accident that occurred in Mojave." She was driving a truck with a camper and passed a semi on the road in the desert when the wind pushed her vehicle causing the accident. Respondent does not recall much about what happened immediately after the accident. Respondent had surgery on her arm that evening and was released from the hospital the next day. Respondent feels terrible that her family was injured in the accident, wishes that it had never happened, and expressed remorse for the incident.

13. Respondent admits that she drank a beer at lunchtime on the day of the accident and two mixed drinks the night before but denies consuming any more alcohol around the time of the incident. Respondent asserts that her blood alcohol level could not have been at or above 0.08 percent, let alone 0.15 percent. Respondent points out that she was unable to retest the blood sample she provided on the date of the incident despite her desire to do so during the court proceedings. Respondent submitted multiple court documents, transcripts and her notes of the proceedings to support her position, however, she was informed at hearing that she cannot impeach her conviction in this administrative proceeding.

14. Respondent explained that in November 2016, during the time between the incident in 2016 and her arraignment in early 2018, respondent's husband was severely burned and spent 30 days in the burn unit of the hospital, having skin grafts. The following year of adjustment and recovery related to his injuries was very challenging for him and for respondent.

15. On January 1, 2018, respondent was taken into custody on a warrant related to the DUI incident which she was unaware of. She was released on bail and arraigned in court that month. The court process was lengthy and stressful for respondent. She was required to appear in court every month or two thereafter, which was difficult due to her husband's condition and the distance from Healdsburg to Mojave which is approximately 400 miles.

16. In March 2018, respondent asked her public defender to request a blood split to retest her blood sample which was taken near the time of the incident. The public defender apparently failed to request the blood split and by the time respondent obtained a new attorney in November 2019, the sample was unavailable for retesting. Respondent feels that because of this she could not prove that her blood alcohol level was below 0.08 percent.

17. The case was transferred from Mojave to Bakersfield, which is closer to Healdsburg, on February 11, 2020. Several court appearances were cancelled due to the Covid-19 pandemic.

18. Respondent reported that she ultimately pled to the DUI because she did not want to risk going to trial and potentially spending three years in prison, she was unable to leave her husband for that length of time, and she did not want her stepdaughter to have to testify at trial.

19. Respondent's probation was transferred to Sonoma in 2022. Respondent reported that she complied with her reporting requirements. However, it was difficult for respondent to arrange to participate in the court ordered programs in Sonoma because respondent worked in Marin and her job was very busy. In November 2023, a warrant was issued because respondent missed a scheduled court appearance that she was unaware of. When she appeared in court in January 2024 to clear the warrant, she was taken into custody and remained incarcerated for nearly three months. Respondent reportedly violated her probation by failing to complete the DUI program, parenting classes, and substance abuse program in accordance with the court's deadlines. Her probation was modified and extended until November 2024.

20. Respondent completed the terms of her probation and her probation ended in November 2024. Respondent provided proof of successful completion of an outpatient substance abuse treatment program dated December 17, 2024, and proof of completion of parenting classes at the Child Parent Institute in 2024. Respondent also completed her three-month first offender drinking and driving program and paid fines. Respondent plans to seek an expungement of the conviction.

21. A letter from the outpatient substance abuse program indicated that respondent satisfied all requirements of the program including consistently attending weekly groups and individual sessions as scheduled, consistent communication with her case manager, and abstinence from alcohol as evidenced by negative urinalysis tests.

22. Respondent abstained from alcohol during her probationary period. Respondent does not feel that she has a problem with alcohol and does not currently attend sobriety support groups. Respondent does not crave alcohol and typically spends time with her husband, stepdaughter and dog during her free time.

Respondent reported that she has probably consumed three alcoholic beverages since her probation ended at the end of 2024.

23. Respondent has a strong support network in Healdsburg. Her mother and four siblings live in the area, and she sees them regularly. She and her husband reconnected after getting to know each other in high school and have been married for ten years. Respondent's stepdaughter, who is currently 22 years old, recently moved in with them.

24. Respondent has an extensive employment history and has primarily worked in the real estate field. Respondent was employed by Macerich, a real estate investment trust that owns malls for over 13 years as a bookkeeper, head bookkeeper, and assistant to the operations manager. In 2015 and 2016, respondent worked at a Sheraton in Marin in accounting and human resources. In 2016, the Northgate mall in Marin was sold to Merlone Geier. Respondent's prior boss was hired by Merlone Geier as the property manager, and respondent was hired as the assistant property manager. In her role respondent assisted in managing 13 properties. Respondent worked for Merlone Geier for more than eight years. Respondent lost her job with Merlone Geier when she went into custody for several months beginning in January 2024.

25. In June 2024, respondent was hired as a property manager with Keegan & Coppin Company Inc. (Keegan). However, prior to being licensed, respondent is authorized only to act as an assistant property manager. In her role, respondent manages five or six properties. She visits properties, works with maintenance staff and owners, and handles banking, budgeting, monthly reports, and accounts receivable and payable. Respondent works full time.

26. Respondent obtained educational certificates for completing real estate courses, applied for her salesperson license in January 2025, and passed her real estate salesperson exam. Respondent loves her job and is well liked by her employer. Respondent is amenable to a restricted license and has a broker at Keegan who is willing to supervise her.

27. Respondent fears that Keegan will not continue to employ her if she does not obtain her real estate license because she was initially hired as a property manager and it has always been Keegan's expectation that she works as a property manager. Respondent reported that she needs to work because her husband is disabled and cannot work.

28. Respondent requests that the Department issue her a real estate salesperson license. Respondent has completed all the requirements of her criminal probation and vows to "never be on (criminal) probation again." She also points out that she has primarily worked in the real estate field, and that her employer values her work and supports her application for licensure.

29. Lucas Heller, director of property management at Keegan, wrote a letter dated January 29, 2026, expressing the company's strong support for respondent's appeal and describing her as a highly capable, dedicated, and hardworking professional. Heller wrote:

I respectfully ask that the Department consider
[respondent's] appeal. I am confident that she possesses
the character, professionalism, and commitment necessary
to uphold the standards of the California Department of

Real Estate and to serve the public responsibly and ethically as a licensed real estate professional.

LEGAL CONCLUSIONS

1. Respondent bears the burden of proof to establish, by a preponderance of the evidence, that she is qualified for the license she seeks to obtain, including rehabilitation from her criminal offense. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1959) 52 Cal.2d 259, 265; Evid. Code, §§ 115, 500.)

2. The Real Estate Commissioner (Commissioner) may deny an application for a real estate license if the applicant has, within the preceding seven years from the date of the application, been convicted of a crime or released from incarceration for a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee. (Bus. & Prof. Code, §§ 480, subd. (a)(1), 10177, subd. (b) [all further statutory references are to the Business and Professions Code unless stated otherwise].)

Respondent's 2021 felony conviction for DUI causing bodily injury is within seven years of the date of respondent's application. Furthermore, this conviction as set forth in Factual Findings 3 through 6, and 11, is substantially related to the qualifications, functions, or duties of a real estate licensee because it involved an unlawful act with the threat of doing substantial injury to the person or property of another. (§ 480, subd. (a)(1), Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) In this case, respondent's passengers either sustained or were at risk of sustaining substantial injuries because of the incident. (Factual Findings 3 & 4.) Accordingly, cause exists

under sections 480, subdivision (a)(1), and 10177, subdivision (b), to deny respondent's license application, based on this conviction.

Determination of Discipline

3. Cause for denial having been established, the remaining issue is whether granting respondent a license is consistent with public protection. (§ 10050.1.) The purpose of administrative proceedings regarding professional licenses is not to punish the applicant or licensee, but to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786; *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 768.)

4. In California Code of Regulations, title 10, section 2911, the Commissioner has established criteria to be used in evaluating the rehabilitation of an applicant. The relevant criteria to be considered in this case include: the passage of more than two years since the most recent conviction, the time elapsed since commission of the offense (subd. (a)(1)); successful completion of probation (subd. (a)(5)); abstinence from the use of controlled substances for not less than two years if the conduct which is the basis to deny licensure is attributable in part to the use of controlled substances (subd. (a)(6)); payment of fines and monetary penalties (subd. (a)(7)); stability of family life and fulfillment of familial responsibilities subsequent to the criminal convictions (subd. (a)(8)); completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement (subd. (a)(9)); new and different business relationships from those which existed at the time of the criminal offenses (subd. (a)(13)); and change in attitude from that which existed at the time of the commission of the criminal offense, including testimony and/or other evidence of rehabilitation submitted by the applicant, and the absence of

subsequent convictions or other conduct that provides grounds to discipline a real estate license (subd. (a)(14)).

5. Respondent's conviction is concerning. In addition, respondent initially argued that she pled to the offense not because she was guilty of it but for other reasons. Respondent cannot impeach her criminal conviction in this proceeding. (*Arneson v. Fox* (1980) 28 Cal. 3d. 440, 449.) Although respondent does not believe that her blood alcohol level was as high as alleged at the time of the incident, she did acknowledge that she drank alcohol earlier that day and expressed remorse for her actions and her family members' injuries. Furthermore, it has been four and a half years since the conviction, and nine and a half years since the underlying conduct. Respondent completed her probation requirements including the DUI program, a parenting class, outpatient substance abuse treatment, and payment of fines. Respondent abstained from alcohol for three years while on probation, and now rarely drinks alcohol. Respondent has a stable employment history in the real estate field, obtained educational certificates in real estate, and passed the real estate exam. Respondent has a stable family life and the support of her family members as well as her current employer.

6. Respondent has demonstrated sufficient rehabilitation from her criminal offense to establish that she is unlikely to engage in criminal conduct in the future and that she can be trusted to discharge the duties of a real estate salesperson in a manner consistent with public safety. The public will be adequately protected by the following order, which allows respondent to obtain a real estate salesperson license on a restricted basis.

ORDER

The application of respondent Kerry Anne Barnes for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. 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 said Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - a. The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or
 - b. The receipt of evidence 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 this restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two

years have elapsed from the date of issuance of the restricted license to respondent.

3. Respondent shall submit with any application for a 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 as follows:
 - a. That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and
 - b. That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.
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. 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 suspension or revocation of that license.

DATE: 02/23/2026


Michelle Dylan (Feb 23, 2026 16:17:41 PST)

MICHELLE DYLAN

Administrative Law Judge

Office of Administrative Hearings