



1 On March 23, 2006, ALJ Lopez issued a Proposed  
2 Decision, which I declined to adopt as my decision.

3 Pursuant to Section 11517(c) of the Government Code of  
4 the State of California, Respondent was served with notice of my  
5 determination not to adopt the Proposed Decision of the ALJ  
6 along with a copy of said Proposed Decision. Respondent was  
7 notified that I would decide the case upon the record, the  
8 transcript of proceedings held on February 27, 2006, and upon  
9 any written argument offered by Respondent and Complainant.  
10 Respondent submitted written argument on July 21, 2006.

11 Complainant submitted written argument on August 17, 2006.

12 On September 5, 2006, a Decision After Rejection was  
13 rendered in the above-entitled matter to become effective  
14 September 27, 2006. The effective date of the Decision After  
15 Rejection of September 5, 2006 was stayed by separate Order to  
16 October 27, 2006.

17  
18 On October 6, 2006, respondent petitioned for  
19 reconsideration of the said Decision of September 5, 2006.

20 On October 23, 2006, reconsideration was granted.

21 I have given careful consideration to the record in  
22 this case including the transcript of the proceedings of  
23 February 27, 2006. I have also considered the arguments  
24 submitted by Respondent and the arguments submitted on behalf of  
25 Complainant.

26 ///

27



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ROBERT A. (ARNOLD) REYES,

Respondent.

Case No. H-32017 LA

OAH No. L2005070880

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on February 27, 2006.

Alvaro Mejia, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Thomas C. Lasken, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

1. The Complainant Janice Waddell, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.

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

3. Over the years Respondent and his one time fiancé, one time wife, and now ex-wife Andrea Besore, have had an "on-and-off" tempestuous love affair punctuated by frequent disagreements and arguments. One evening, the couple had a verbal disagreement which escalated into an argument and then into a physical confrontation. As a result, a warrant issued for Respondent's arrest and he was, subsequently, arrested and booked on

September 20, 2002. Thereafter, on March 4, 2003, in the Municipal Court of South Bay Judicial District, County of Los Angeles, State of California, in Case No. 2SB05974, Respondent was convicted of violating California Penal Code section 243, subdivision (e)(1) (Battery Against Former Spousal/Fiance), a misdemeanor and a crime of moral turpitude.

4. As a result of the 2003 battery, Respondent served one day in jail and was placed on three years summary probation. He was ordered to perform 50 hours of community service for CalTrans and complete a one year domestic violence program. He timely completed the community service and the domestic violence program.

5. Prior to his completion of probation in the 2003 conviction, on April 7, 2004, Respondent was having dinner with Ms. Besore, at the Renaissance Esmeralda in Indian Wells, after an apparent reconciliation. During the course of dinner, with wine, an argument ensued between the couple which later continued when they retired to their hotel room. The argument – despite Respondent's completion of the court mandated anger management course – escalated into a physical confrontation. Respondent attempted to grab a phone from Ms. Besore while Ms. Besore attempted to place a phone call. During the struggle Ms. Besore sustained a one inch cut on her left cheek, scratches on both sides of her neck, and a medium sized bump on the back of her head. Respondent had no visible injuries. As a result of the confrontation, Ms. Besore called the police and Respondent was arrested. Thereafter, on August 6, 2004, in the Superior Court of California, County of Riverside, in Case No. INM146499, Respondent was convicted again of violating California Penal Code section 243, subdivision (e)(1) (battery on a Spouse or Person whom the Defendant is Cohabiting), a misdemeanor, and a crime of moral turpitude.

6. One of the express conditions of the probation in the 2003 conviction is: "Respondent ordered not to commit the same or any similar offense.: Another express condition is: "Obey all laws and orders of this court." By his conduct set forth in Finding 5, Respondent violated his probation and therefore the term of probation was extended to August, 2007.

7. As a result of the 2004 conviction Respondent was placed on a three year summary probation. He again was ordered to complete a 52 week domestic violence program; to undertake therapy from a licensed professional and to perform 30 hours of community service. He has – again – completed the program and the community service and he did – for one year – meet weekly with a therapist. At present he is full compliance with all terms and conditions of probation in both cases.

8. Respondent, 48 years of age, has three children from prior marriages; two boys aged 12 and 9, and a daughter aged, 21. He has joint custody of the two boys with his former wife, Kathy Hong. He provides for the financial support of his sons and he helps Ms. Hong with her expenses of daily living. He participates with his sons in social and school activities and has a close relationship with them. He has a close relationship with his daughter and contributes to her expenses of daily living. Presently, he has stability of family life and he does fulfill parental and familial responsibilities.

9. From time to time, Respondent helps coach his sons' soccer teams and also does volunteer work as a referee. He has acted numerous times as a volunteer for the Red Cross, helping set up and administer blood drives at local high schools. He, therefore, has significant and conscientious involvement in community and privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

10. Respondent has a change in attitude from that which existed at the time of the 2004 conviction. That change was brought about by the reinforcement of the lessons learned from the second 52 week domestic violence course; by the one year of therapy directed to anger management and by his devotion to his children. He is committed to never again shame his children by his conduct and to never again cause harm to Ms. Besore.

11. Kathy Hong, Respondent's ex-wife; a Portfolio Manager; and close friend of Respondent gave credible testimony as to Respondent's reputation for social responsibility. Respondent is open, honest, truthful and a good father. He is a hard worker who helps others. That testimony was corroborated by a number of letters in support of Respondent including letters from his therapist and from Andrea Besore. He has suffered no other convictions and – except as to Ms. Besore – has no history or pattern of violent conduct.

12. Respondent has been a long time licensee of the Department – since 1986 – with no record of discipline and no record of consumer complaint. Over the years he has worked with diligence, fidelity and trustworthiness. He is presently employed by Real Estate West, Inc. and its broker Robert Schulmann. Mr. Schulmann – knowledgeable as to Respondent's work ethic – gave credible testimony in his behalf. Respondent is professional, ethical, sensitive, and caring as to client needs. He is honest and truthful. Mr. Schulmann is aware of Respondent's conviction and will continue to retain and supervise Respondent, should Respondent be granted a restricted license.

## LEGAL CONCLUSIONS

1. Respondent's conduct set forth in Findings 3 and 5 constitute the doing of unlawful acts with the intent or threat of doing substantial injury to Andrea Besore. Accordingly, the convictions bear a substantial relationship under California Code of Regulations, title 10, section 2910, to the qualifications, functions or duties of a real estate licensee.

2. The substantially related crimes of which Respondent was convicted, as set forth in Findings 3 and 5, constitute cause under Business and Professions Code sections 490 and 10177, subdivision (b) for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

3. The Department's Criteria of Rehabilitation, as set forth in California Code of Regulations, title 10, section 2912, have been read and considered. A commentary as to the Criteria in the Department's form RE573 includes the following:

Not all of the factors listed in the criteria will be applicable in the case of every person . . . Nor will each factor necessarily be given equal weight in evaluating the person's rehabilitation.

The preamble to section 2912 states:

2912. Criteria of Rehabilitation (Revocation or Suspension).

The following criteria have been developed by the department pursuant to section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

Evaluation of Respondent's rehabilitation reveals that Respondent has not met some of the Criteria in that he is still on probation, and therefore, the crimes have not been expunged. However, Respondent has met most of the Criteria as is reflected in Findings 7 through 12. The crimes are serious. Weighed against those serious crimes is Respondent's long history of honesty and trustworthiness while working under his license and his substantial rehabilitation to date. Accordingly, the issuance of a restricted license is in the public interest.

#### ORDER

All licenses and licensing rights of Respondent Robert A. Reyes 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 therefore 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.

Dated: April 23, 2006

  
RICHARD J. LOPEZ

Administrative Law Judge  
Office of Administrative Hearings

RJL:rfm

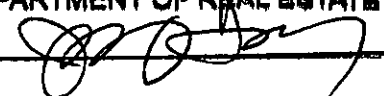


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**FILED**

OCT 25 2006

DEPARTMENT OF REAL ESTATE  
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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|                                    |   |                |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of | ) | NO. H-32017 LA |
|                                    | ) |                |
| ROBERT A (ARNOLD) REYES,           | ) | L-2005070880   |
|                                    | ) |                |
| Respondent.                        | ) |                |
|                                    | ) |                |

ORDER GRANTING RECONSIDERATION

On September 5, 2006, a Decision After Rejection was rendered in the above-entitled matter to become effective September 27, 2006. The effective date of the Decision After Rejection of September 5, 2006 was stayed by separate Order to October 27, 2006.

On October 6, 2006, respondent petitioned for reconsideration of the said Decision of September 5, 2006.

I find that there is good cause to reconsider the Decision of September 5, 2006. Reconsideration is hereby granted.

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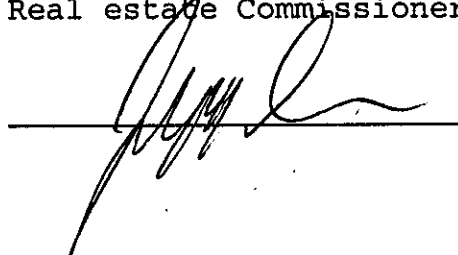
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1 Respondent shall have thirty (30) days from the date of  
2 this Order, in which to file written argument in further support  
3 of his petition for reconsideration. Counsel for the Department  
4 of Real Estate shall submit any written reply to said argument  
5 within thirty (30) days thereafter.

6 IT IS SO ORDERED

10-23-06

7 JEFF DAVI  
8 Real estate Commissioner

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The Decision of September 5, 2006, shall become effective at 12 o'clock noon on October 27, 2006.

DATED: September 14, 2006.

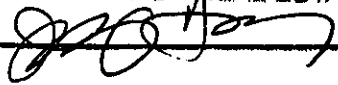
JEFF DAVI  
Real Estate Commissioner

By: *Dolores Weeks*  
DOLORES WEEKS  
Regional Manager

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**FILED**

SEP 07 2006

DEPARTMENT OF REAL ESTATE  
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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|                                    |   |              |
|------------------------------------|---|--------------|
| In the Matter of the Accusation of | ) | H-32017 LA   |
|                                    | ) | L-2005070880 |
| ROBERT A (ARNOLD) REYES,           | ) |              |
|                                    | ) |              |
| Respondent.                        | ) |              |
|                                    | ) |              |

DECISION AFTER REJECTION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge (hereinafter "ALJ") of the Office of Administrative Hearings (hereinafter "OAH"), at Los Angeles, California, on February 27, 2006. ROBERT A (ARNOLD) REYES (hereinafter "Respondent") appeared in person and was represented by Thomas C. Lasken, Attorney at Law. Alvaro Mejia, Staff Counsel, represented the Complainant, Janice Waddell, a Deputy Real Estate Commissioner for the State of California. All evidence being received, the matter was deemed submitted for decision at that time.

1 On March 23, 2006, ALJ Lopez issued a Proposed  
2 Decision, which I declined to adopt as my decision.

3 Pursuant to Section 11517(c) of the Government Code of  
4 the State of California, Respondent was served with notice of my  
5 determination not to adopt the Proposed Decision of the ALJ  
6 along with a copy of said Proposed Decision. Respondent was  
7 notified that I would decide the case upon the record, the  
8 transcript of proceedings held on February 27, 2006, and upon  
9 any written argument offered by Respondent and Complainant.

10 Respondent submitted written argument on July 21, 2006.

11 Complainant submitted written argument on August 17, 2006.

12 I have given careful consideration to the record in  
13 this case including the transcript of the proceedings February  
14 27, 2006. I have also considered the Arguments submitted by  
15 Respondent and Complainant.

16  
17 The following shall constitute the Decision of the  
18 Real Estate Commissioner in this proceeding.

19 FACTUAL FINDINGS

20 1. Complainant Janice Waddell, Deputy Real Estate  
21 Commissioner of the State of California, made and filed the  
22 Accusation in this proceeding in her official capacity and not  
23 otherwise.

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1                   2. Respondent ROBERT A (ARNOLD) REYES is licensed by  
2 the Department as a real estate salesperson, license number  
3 1042444. The license was originally issued in 1989.  
4 Respondent's license is current, with an expiration date of  
5 March 31, 2010.

6                   3. The Accusation in this matter was filed on June 23,  
7 2005, and was served on Respondent. Respondent timely filed a  
8 Notice of Defense contesting the charges set forth therein, and  
9 this hearing followed.

10                  4. On or about March 4, 2003, in the Municipal Court  
11 of South Bay Judicial District, County of Los Angeles, State of  
12 California, in case no. 2SB05974, Respondent was convicted of  
13 violating California Penal Code section 243, subdivision (e)(1)  
14 (Battery Against Former Spouse/Fiancé), a misdemeanor.

15                  5. As a result of the conviction, Respondent served  
16 one day in jail and was placed on three years summary probation.  
17 Respondent was ordered to perform fifty (50) hours of community  
18 service for CalTrans and complete a one-year domestic violence  
19 program. He was ordered to pay a \$200 domestic violence fee.  
20 Respondent timely completed the community service and the  
21 domestic violence program.  
22

23                  6. The facts surrounding this conviction were that  
24 Respondent, when he was 44 years old, was involved in an  
25 argument and physical altercation with his one time wife, Andrea  
26 Besore, the victim in this case. Respondent and the victim had  
27 been involved in an "on-and-off" relationship for several years.

1 The relationship was described as tempestuous and was  
2 characterized by frequent disagreements and arguments. One  
3 evening, Respondent and Ms. Besore had a verbal disagreement  
4 which escalated into an argument and then into a physical  
5 confrontation. As a result, a warrant was issued for  
6 Respondent's arrest and he was, subsequently, arrested and  
7 booked on September 20, 2002.

8 7. On or about August 6, 2004, in the Superior Court  
9 of California, County of Riverside, in case no. INM146499,  
10 Respondent was convicted again of violating California Penal  
11 Code section 243, subdivision (e)(1) (Battery on a Spouse or  
12 Person whom the Defendant is Cohabiting), a misdemeanor.

13 8. One of the express conditions of the probation in  
14 the 2003 conviction is: "Respondent ordered not to commit the  
15 same or any similar offense.: Another express condition is:  
16 "Obey all laws and orders of this court." By his conduct set  
17 forth in Findings 7, Respondent violated his probation and  
18 therefore the term of probation was extended to August 2007.

19 9. As a result of the conviction, Respondent served  
20 one day in jail and was placed on three years summary probation.  
21 Respondent was ordered to perform thirty (30) hours of community  
22 service and complete a certified fifty-two (52) week Domestic  
23 Violence/Batterers Program; and to undertake therapy from a  
24 licensed professional. He was ordered to pay \$310 in fines,  
25 assessment, and fees. He has, again, completed the domestic  
26 violence program and the community service and he did, for one  
27



1 year, meet weekly with a therapist. Respondent, at present, is  
2 in full compliance with all terms and conditions of probation in  
3 both cases.

4 10. The facts surrounding this conviction were that  
5 Respondent, while still on probation for the 2003 conviction,  
6 was again involved in an argument and physical altercation with  
7 Ms. Basore. Respondent and Ms. Basore were having dinner at the  
8 Renaissance Esmeralda in Indian Wells, after an apparent  
9 reconciliation. After dinner, with wine, the couple went to a  
10 dance club where an argument ensued, which later continued to  
11 their hotel room. The argument, despite Respondent's completion  
12 of the court mandated anger management course, escalated into a  
13 physical confrontation. Respondent attempted to grab a phone  
14 from Ms. Besore while she attempted to place a phone call.  
15 During the struggle, Ms. Besore sustained a one-inch cut on her  
16 left cheek, scratches on both sides of her neck, and a medium  
17 sized bump on the back of her head. Respondent had no visible  
18 injuries. As a result of the confrontation, Ms. Besore called  
19 the police and Respondent was arrested.  
20

21 11. The crimes set forth in Findings 4, 6, 7, and 9,  
22 by their facts and circumstances, are crimes of moral turpitude.

23 12. Respondent's conduct, as set forth in Findings 4,  
24 6, 7, and 10, constitutes the doing of an unlawful act with the  
25 intent or threat of doing substantial injury to the person of  
26 another.  
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Factors in Mitigation and of Rehabilitation

1  
2 13. As to Respondent's 2003 sentence, he has completed  
3 his community service requirement, domestic violence program,  
4 and paid the fines in full. Respondent testified that he has  
5 met, and is meeting all other conditions of probation.

6 14. As to Respondent's 2004 sentence, he has completed  
7 his community service requirement and paid the fines,  
8 assessments, and penalties in full. Respondent testified that  
9 he has met, and is meeting all other conditions of probation.

10 15. Respondent is 48 years of age. He testified that  
11 he has three (3) children from prior marriages; two boys aged 12  
12 and 9, and a daughter aged, 21. Respondent further testified  
13 that he has joint custody of the two boys with his former wife,  
14 Kathy Hong. Respondent testified that he provides for the  
15 financial support of his sons and assists Ms. Hong with her  
16 daily living expenses. Respondent testified that he  
17 participates with his sons in social and school activities and  
18 has a close relationship with them. Respondent testified that  
19 he has a close relationship with his daughter and contributes to  
20 her expenses of daily living. ALJ Lopez found that Respondent  
21 has stability of family life and that Respondent fulfills his  
22 parental and familial responsibilities.  
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1 16. Respondent testified that, from time to time, he  
2 helps his sons' soccer teams and also does volunteer work as a  
3 referee. Respondent also testified that he has volunteered for  
4 the Red Cross, helping set up and administer blood drives at  
5 local high schools. ALJ Lopez found that Respondent has  
6 significant and conscientious involvement in community and  
7 privately-sponsored programs designed to provide social benefits  
8 or to ameliorate social problems.

9 17. ALJ found that Respondent has a change of attitude  
10 from that which existed at the time of the 2004 conviction.  
11 Respondent testified that the lessons learned during the first  
12 domestic violence program were reinforced during the second 52-  
13 week domestic violence course; by the one year of therapy  
14 directed to anger management; and by his devotion to his  
15 children.

16 18. Kathy Hong, Respondent's ex-wife; a portfolio  
17 manager, gave testimony on behalf of Respondent, which ALJ Lopez  
18 found to be credible. Ms. Hong testified that Respondent is  
19 open, honest, truthful, and a good father. Respondent submitted  
20 a number of letters in support of Respondent, including a letter  
21 from his therapist and from Ms. Andrea Besore.

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1 19. Respondent has been a licensee of the Department  
2 since 1986, with no record of discipline and no record of  
3 consumer complaints. Respondent is presently employed by Real  
4 Estate West, Inc. and its broker Robert Schulmann. Mr.  
5 Schulmann testified on Respondent behalf. Mr. Schulmann  
6 testified that he is aware of Respondent's criminal convictions  
7 and is willing to supervise Respondent, should Respondent be  
8 granted a restricted license.

9 LEGAL CONCLUSIONS

10 1. These proceedings are brought under the provisions  
11 of section 10100, Division 4 of the Business and Professions  
12 Code of the State of California and sections 11500 through 11528  
13 of the Government Code.

14 2. Cause exists to suspend or revoke Respondent's real  
15 estate salesperson license pursuant to the provisions of  
16 Business and Professions Code Sections 490 and 10177(b). The  
17 convictions were crimes involving moral turpitude which are  
18 substantially related to the qualifications, functions, and  
19 duties of a real estate licensee, pursuant to Section  
20 2910(a)(8), Title 10, California Code of Regulations.

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1 3. As a part of the regulations governing the practice  
2 of real estate in the State of California, the Department has  
3 developed certain criteria, set forth in the California Code of  
4 Regulations, Title 10, Regulation 2912, for the purpose of  
5 evaluating the rehabilitation of a licensee against whom an  
6 administrative disciplinary proceeding for revocation or  
7 suspension of the license has been initiated on account of a  
8 conviction. A review of those criteria applicable to the facts  
9 of this case reveals the following:

10 a. Respondent's first conviction occurred on  
11 March 4, 2003, over 2 years ago. Respondent's second  
12 convictions occurred on August 6, 2004, slightly over  
13 2 years ago. A longer period of time is required to  
14 assess Respondent's rehabilitation because of his  
15 history of acts and conduct which is substantially  
16 related to the qualifications, functions, and duties  
17 of a real estate licensee.

18 b. Respondent was not required to pay restitution  
19 as part of either of his criminal convictions.

20 c. Respondent has not obtained an expungement of  
21 either of his criminal convictions.

22 d. Registration pursuant to Penal Code Section  
23 290 is not applicable.  
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e. Respondent is still on probation.

Respondent's probation is not scheduled to terminate until August 2007 for both of his convictions.

f. There was no indication that Respondent's convictions or the circumstances leading thereto involved the use or abuse of alcohol or drugs, so this factor is not applicable.

g. Respondent paid all fines due.

h. There was no indication that Respondent's convictions or the circumstances leading thereto involved Respondent's business practices, so this factor is not applicable.

i. Respondent testified that he continues to have a social relationship with Ms. Besore, the victim in both of Respondent's criminal convictions.

j. ALJ Lopez found that Respondent's family life appears stable.

k. Respondent testified that he has remained current in his real estate courses.

l. Respondent testified that he is involved in his sons' sports activities and volunteers for the Red Cross.

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1 m. The ALJ found that at hearing, Respondent  
2 demonstrated a change of attitude from that which  
3 existed at the time of the 2004 conviction. I  
4 disagree. Respondent continues to have a relationship  
5 with Ms. Besore. Furthermore, Respondent's present  
6 good conduct must be viewed in light of Respondent  
7 presently being on probation. In fact, Respondent's  
8 probation in the 2004 case has been extended until  
9 August 2007.

10 4. Respondent's crimes are serious. Respondent  
11 candidly admitted that, for many years, he has been involved  
12 with Ms. Besore, in a relationship that has been, at various  
13 times, filled with anger, instability, and animosity.  
14 Respondent has directly attributed his behavior to his  
15 relationship with Ms. Besore and at times seems to place blame  
16 for these incidents on Ms. Besore's purported instability and  
17 temperament. However, whatever his explanation, such crimes of  
18 violence cannot be excused or condoned.

19 5. At hearing, Respondent testified that he had  
20 already completed one court-ordered anger management course when  
21 the 2004 incident occurred. Despite the anger management  
22 course, Respondent created a situation that led to his  
23 subsequent conviction for the exact same crime. The court, in  
24 2003, had already placed Respondent on notice. Respondent  
25 violated the terms of his probation and therefore the term of  
26 probation was extended to August 2007.  
27

1 The Respondent now claims, that his subsequent  
2 completing of a second anger management program will assure the  
3 Department that he will never again be involved in another  
4 similar incident. Based on Respondent's history of such  
5 incidents, it is not certain that this will be the case.

6 6. The Administrative Law Judge found that the  
7 Complainant met its burden in establishing that grounds exist to  
8 revoke or otherwise discipline Respondent's real estate license.  
9 That burden having been met, the degree of discipline rests  
10 solely with the Commissioner (Golde v. Fox (1979) 98 Cal.App.3d  
11 167, 178). Respondent's convictions, and the totality of the  
12 circumstances surrounding them, call into question his judgment  
13 and attitude toward violence as a means of resolving conflict.  
14 A period of longer than two years free of misconduct is  
15 necessary to more fully establish rehabilitation. Furthermore,  
16 Respondent is scheduled to remain on probation until August  
17 2007.

18 7. The disciplinary procedures provided for in the  
19 Real Estate Law are intended to protect the public when they  
20 deal with real estate licensees (Business and Professions Code  
21 Section 10050 and Handeland v. DRE (1975) 58 Cal. App. 513.).  
22 The purpose of these disciplinary procedures is not penal.  
23 Hughes v. Board of Architectural Examiners (1998) 17 Cal. 4<sup>th</sup>  
24 763, 786-787.

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1 8. Real estate licensees occupy a unique position of  
2 trust and responsibility toward the consuming public. They can  
3 function with little supervision. The possession of a real  
4 estate license entitles the holder to personal information of  
5 others, and enter the homes and have access to the property of  
6 others without supervision. Such licensees must be trustworthy.  
7 See Ring v. Smith (1970) 5 Cal.App.3<sup>rd</sup> 197, 205; Golde v Fox  
8 (1979) 98 Cal.App.3d, 167, 177; and Harrington v. Department of  
9 Real Estate (1989) 214 Cal.App.3d, 394, 402.

10 In addition, there is often a great deal of anxiety  
11 and tension involved in real estate transactions. Because of  
12 this we want licensees who are able to control their anger and  
13 are not prone to strike out against others, verbally or  
14 physically.

15 9. A restricted license allows licensees to perform  
16 the same acts as a non-restricted license including the same  
17 access to the personal information of others, monies and into  
18 homes of members of the public and no one can constantly  
19 monitor all activity.

20 10. Our most effective means of protecting the public  
21 is to refuse to allow a licensee to retain a license when there  
22 is any doubt about the licensee's rehabilitation.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

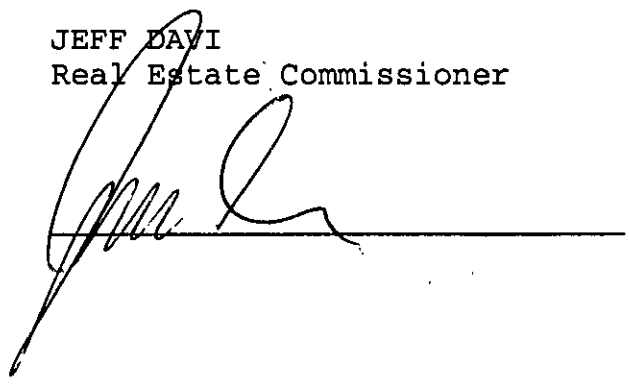
All licenses and licensing rights of Respondent ROBERT

A (ARNOLD) REYES under the Real Estate Law are revoked.

This Decision shall become effective at 12 o'clock  
noon on September 27, 2006.

IT IS SO ORDERED 9-5-06

JEFF DAVI  
Real Estate Commissioner



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1 2006, and any written argument hereafter submitted on behalf of  
2 Respondent and Complainant.

3           Written argument of Respondent to be considered by me  
4 must be submitted within 15 days after receipt of the transcript  
5 of the proceedings of February 27, 2006, at the Los Angeles  
6 office of the Department of Real Estate unless an extension of  
7 the time is granted for good cause shown.

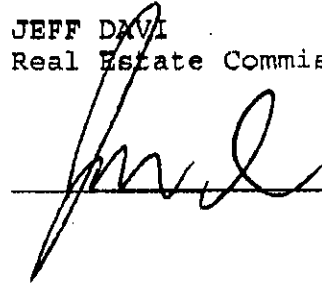
8           Written argument of Complainant to be considered by me  
9 must be submitted within 15 days after receipt of the argument of  
10 Respondent at the Los Angeles office of the Department of Real  
11 Estate unless an extension of the time is granted for good cause  
12 shown.

13           DATED: \_\_\_\_\_

4-25-06

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15                           JEFF DAVIS  
16                           Real Estate Commissioner

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ROBERT A. (ARNOLD) REYES,

Respondent.

Case No. H-32017 LA

OAH No. L2005070880

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on February 27, 2006.

Alvaro Mejia, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Thomas C. Lasken, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

1. The Complainant Janice Waddell, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.

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

3. Over the years Respondent and his one time fiancé, one time wife, and now ex-wife Andrea Besore, have had an "on-and-off" tempestuous love affair punctuated by frequent disagreements and arguments. One evening, the couple had a verbal disagreement which escalated into an argument and then into a physical confrontation. As a result, a warrant issued for Respondent's arrest and he was, subsequently, arrested and booked on

September 20, 2002. Thereafter, on March 4, 2003, in the Municipal Court of South Bay Judicial District, County of Los Angeles, State of California, in Case No. 2SB05974, Respondent was convicted of violating California Penal Code section 243, subdivision (e)(1) (Battery Against Former Spousal/Fiance), a misdemeanor and a crime of moral turpitude.

4. As a result of the 2003 battery, Respondent served one day in jail and was placed on three years summary probation. He was ordered to perform 50 hours of community service for CalTrans and complete a one year domestic violence program. He timely completed the community service and the domestic violence program.

5. Prior to his completion of probation in the 2003 conviction, on April 7, 2004, Respondent was having dinner with Ms. Besore, at the Renaissance Esmeralda in Indian Wells, after an apparent reconciliation. During the course of dinner, with wine, an argument ensued between the couple which later continued when they retired to their hotel room. The argument – despite Respondent’s completion of the court mandated anger management course – escalated into a physical confrontation. Respondent attempted to grab a phone from Ms. Besore while Ms. Besore attempted to place a phone call. During the struggle Ms. Besore sustained a one inch cut on her left cheek, scratches on both sides of her neck, and a medium sized bump on the back of her head. Respondent had no visible injuries. As a result of the confrontation, Ms. Besore called the police and Respondent was arrested. Thereafter, on August 6, 2004, in the Superior Court of California, County of Riverside, in Case No. INM146499, Respondent was convicted again of violating California Penal Code section 243, subdivision (e)(1) (battery on a Spouse or Person whom the Defendant is Cohabiting), a misdemeanor, and a crime of moral turpitude.

6. One of the express conditions of the probation in the 2003 conviction is: “Respondent ordered not to commit the same or any similar offense.: Another express condition is: “Obey all laws and orders of this court.” By his conduct set forth in Finding 5, Respondent violated his probation and therefore the term of probation was extended to August, 2007.

7. As a result of the 2004 conviction Respondent was placed on a three year summary probation. He again was ordered to complete a 52 week domestic violence program; to undertake therapy from a licensed professional and to perform 30 hours of community service. He has – again – completed the program and the community service and he did – for one year – meet weekly with a therapist. At present he is full compliance with all terms and conditions of probation in both cases.

8. Respondent, 48 years of age, has three children from prior marriages; two boys aged 12 and 9, and a daughter aged, 21. He has joint custody of the two boys with his former wife, Kathy Hong. He provides for the financial support of his sons and he helps Ms. Hong with her expenses of daily living. He participates with his sons in social and school activities and has a close relationship with them. He has a close relationship with his daughter and contributes to her expenses of daily living. Presently, he has stability of family life and he does fulfill parental and familial responsibilities.

9. From time to time, Respondent helps coach his sons' soccer teams and also does volunteer work as a referee. He has acted numerous times as a volunteer for the Red Cross, helping set up and administer blood drives at local high schools. He, therefore, has significant and conscientious involvement in community and privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

10. Respondent has a change in attitude from that which existed at the time of the 2004 conviction. That change was brought about by the reinforcement of the lessons learned from the second 52 week domestic violence course; by the one year of therapy directed to anger management and by his devotion to his children. He is committed to never again shame his children by his conduct and to never again cause harm to Ms. Besore.

11. Kathy Hong, Respondent's ex-wife; a Portfolio Manager; and close friend of Respondent gave credible testimony as to Respondent's reputation for social responsibility. Respondent is open, honest, truthful and a good father. He is a hard worker who helps others. That testimony was corroborated by a number of letters in support of Respondent including letters from his therapist and from Andrea Besore. He has suffered no other convictions and – except as to Ms. Besore – has no history or pattern of violent conduct.

12. Respondent has been a long time licensee of the Department – since 1986 – with no record of discipline and no record of consumer complaint. Over the years he has worked with diligence, fidelity and trustworthiness. He is presently employed by Real Estate West, Inc. and its broker Robert Schulmann. Mr. Schulmann – knowledgeable as to Respondent's work ethic – gave credible testimony in his behalf. Respondent is professional, ethical, sensitive, and caring as to client needs. He is honest and truthful. Mr. Schulmann is aware of Respondent's conviction and will continue to retain and supervise Respondent, should Respondent be granted a restricted license.

## LEGAL CONCLUSIONS

1. Respondent's conduct set forth in Findings 3 and 5 constitute the doing of unlawful acts with the intent or threat of doing substantial injury to Andrea Besore. Accordingly, the convictions bear a substantial relationship under California Code of Regulations, title 10, section 2910, to the qualifications, functions or duties of a real estate licensee.

2. The substantially related crimes of which Respondent was convicted, as set forth in Findings 3 and 5, constitute cause under Business and Professions Code sections 490 and 10177, subdivision (b) for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

3. The Department's Criteria of Rehabilitation, as set forth in California Code of Regulations, title 10, section 2912, have been read and considered. A commentary as to the Criteria in the Department's form RE573 includes the following:

Not all of the factors listed in the criteria will be applicable in the case of every person . . . Nor will each factor necessarily be given equal weight in evaluating the person's rehabilitation.

The preamble to section 2912 states:

2912. Criteria of Rehabilitation (Revocation or Suspension).

The following criteria have been developed by the department pursuant to section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

Evaluation of Respondent's rehabilitation reveals that Respondent has not met some of the Criteria in that he is still on probation, and therefore, the crimes have not been expunged. However, Respondent has met most of the Criteria as is reflected in Findings 7 through 12. The crimes are serious. Weighed against those serious crimes is Respondent's long history of honesty and trustworthiness while working under his license and his substantial rehabilitation to date. Accordingly, the issuance of a restricted license is in the public interest.

#### ORDER

All licenses and licensing rights of Respondent Robert A. Reyes 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 therefore 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:

NOT ADOPTED



NOT ADOPTED

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.

Dated: April 23, 2006

  
 RICHARD J. LOPEZ  
 Administrative Law Judge  
 Office of Administrative Hearings


RJL:rfm

1 ALVARO MEJIA, Counsel (SBN 216956)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6916

FILED  
JUN 23 2005

DEPARTMENT OF REAL ESTATE

By 

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-32017 LA  
12 )  
13 ROBERT A (ARNOLD) REYES, ) A C C U S A T I O N  
14 ) Respondent. )

15 The Complainant, Janice Waddell, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against ROBERT A (ARNOLD) REYES, aka Robert Reyes, aka Robert  
18 Arnold Reyes, Bob Reyes, aka Bobby Reyes, ("Respondent") alleges  
19 as follows:

20 1.

21 The Complainant, Janice Waddell, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation  
23 in her official capacity.  
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2.

1 Respondent is presently licensed and/or has license  
2 rights under the Real Estate Law, Part 1 of Division 4 of the  
3 California Business and Professions Code ("Code"), as a real  
4 estate salesperson.  
5

6 3.

7 On or about August 6, 2004, in the Superior Court of  
8 California, County of Riverside, in case no. INM146499,  
9 Respondent was convicted of violating California Penal Code  
10 Section 243(e)(1) (Battery on a Spouse or Person Whom the  
11 Defendant is Cohabiting), a misdemeanor. The underlying facts  
12 of this crime involve moral turpitude, which bears a substantial  
13 relationship under Section 2910, Title 10, Chapter 6, California  
14 Code of Regulations to the qualifications, functions or duties  
15 of a real estate licensee.  
16

17 4.

18 On or about March 4, 2003, in the Municipal Court of  
19 South Bay Judicial District, County of Los Angeles, State of  
20 California, in case no. 2SB05974, Respondent was convicted of  
21 violating California Penal Code Section 243(e)(1) (Battery  
22 Against Former Spouse/Fiancé), a misdemeanor. The underlying  
23 facts of this crime involve moral turpitude, which bears a  
24 substantial relationship under Section 2910, Title 10, Chapter  
25 6, California Code of Regulations to the qualifications,  
26 functions or duties of a real estate licensee.  
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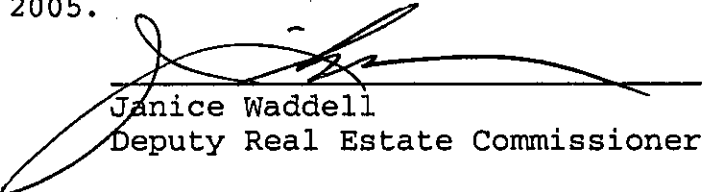
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The crimes of which Respondent was convicted, as described in Paragraph 3 and 4 above, constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

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 the licenses and license rights of Respondent, ROBERT A (ARNOLD) REYES, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 17 day of June, 2005.

  
Janice Waddell  
Deputy Real Estate Commissioner

cc: ROBERT A (ARNOLD) REYES  
Real Estate West Inc  
Janice Waddell  
Sacto.  
LA