

FILED

MAR 11 2021

DEPT. OF REAL ESTATE
By John Azpil

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:) DRE No. H-41708 LA
CHRISTOPHER EDWARD PEREA,) OAH No. 2020070629
Respondent.)

DECISION

The Proposed Decision dated January 14, 2021, 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.

Page 1, third paragraph, "Christopher Perea" shall be amended to include the respondent's middle name, "Edward."

Page 2, paragraph 2, "June 26, 2020" shall be amended to read "July 2, 2020."

Page 2, paragraph 3, "July 17, 2020" shall be amended to read "July 14, 2020."

Page 2, paragraph 4, "MWVI7016589" shall be amended to read "MWV17016589."

Page 11, paragraph 7, "Christopher Perea" shall be amended to include the respondent's middle name, "Edward."

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

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 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 APR 01 2021.

IT IS SO ORDERED 3.1.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

In the Matter of the Accusation against:

CHRISTOPHER EDWARD PEREA, Respondent

Agency Case No. H-41708LA

OAH No. 2020070629

PROPOSED DECISION

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on October 7 and November 6, 2020 by video conference in Los Angeles, California.

Kathy Yi, Staff Counsel, Department of Real Estate (Department) represented Maria Suarez (complainant), a Supervising Special Investigator with the Department.

Alan Wallace, Esq., represented Christopher Perea (respondent) who was present at the hearing.

Documentary evidence and witness testimony was received into evidence and the record was closed. The matter was submitted for decision on November 6, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 16, 2004, the Department issued real estate salesperson license number S/01459130 to respondent. Respondent's license is set to expire on May 1, 2023, unless renewed.
2. On June 26, 2020, complainant filed the Accusation while acting in her official capacity.
3. On July 17, 2020, respondent filed a Notice of Defense, which requested a hearing.

Respondent's Convictions

4. On December 20, 2017, in the Superior Court of California, County of San Bernardino, case number MWVI7016589, respondent was convicted, on his plea of no contest, of violating Vehicle Code section 23103, subdivision (a)(wet reckless driving), a misdemeanor. The underlying event occurred on February 24, 2017, when police discovered respondent, who was intoxicated, asleep in his vehicle in a parking lot.
5. The criminal court suspended the imposition of sentence and placed respondent on summary probation for 36 months with terms and conditions, which included completing a 26-week parenting class, spending 30 days in county jail (to be served at a rehabilitation center) and paying fines and fees.
6. On September 13, 2019, in the Superior Court of California, County of Orange, case number 18CF3198, respondent was convicted, on his plea of guilty, of violating Vehicle Code sections 23152, subdivision (a)(Driving Under the Influence of

Alcohol) and 20002, subdivision (a) (hit and run with property damage), both misdemeanors. The underlying event leading to this conviction occurred on November 12, 2018, when respondent was driving and tried to evade police officers. He crashed the vehicle, tried to run away, and was arrested. Respondent was intoxicated at the time of his arrest and he has no memory of the event.

7. The criminal court suspended the imposition of sentence and placed respondent on summary probation for three years with certain terms and conditions, which included serving four days in county jail in lieu of a \$390 fine, performing 20 days of Cal Trans/physical labor, completing a three month Level 1 First Offender Alcohol Program, completing victim impact counseling, completing 30 self-help meetings, and paying restitution, fines and fees.

8. In aggravation, on October 22, 2013, in the Superior Court of California, County of San Bernardino, case number TWV1202388, respondent was convicted on his plea of guilty, of violating Vehicle Code section 23152, subdivision (b)(Driving Under the Influence of alcohol 0.08 percent blood alcohol content), a misdemeanor. The criminal court sentenced respondent to 119 days in county jail, but respondent was only required to serve 11 days. On June 8, 2016, this conviction was expunged pursuant to Penal Code 1203.4.

Failure to Report Convictions

9. Business and Professions Code section 10186.2 requires a licensee to report, in writing, "the conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor" to the Department within 30 days of the conviction.

10. Respondent failed to report his 2017 and 2019 convictions to the Department within 30 days after each conviction.

11. Respondent testified that during the legal process that led to his 2013 conviction, he was contacted by Greg Eaddy (Eaddy), an investigator for the Department. Respondent had occasional contact with Eaddy between July 2013 and June 2016.

12. Respondent believed that the Department would become aware of his 2017 criminal charges, and subsequent conviction, in the same manner¹ which the Department became aware of his 2013 criminal charges and conviction. Respondent had spoken with Eaddy approximately eight months before his arrest in February 2017 and he thought Eaddy was still monitoring respondent's status. Therefore, respondent erroneously believed he was not required to report his 2017 conviction. Respondent's beliefs explain, but do not excuse, his failure to report his 2017 conviction.

13. In May 2019, respondent filed a renewal application with the Department. Respondent did not disclose that criminal charges were pending against him, which ultimately led to his conviction in September 2019. At the time respondent filed the renewal, respondent was hopeful the criminal charges would be dismissed. Respondent also was fearful about disclosing pending criminal charges because he thought he might lose his license and be unable to support himself and his son.

¹ It was not established how the Department became aware that criminal charges had been filed against respondent, which led to his 2013 conviction.

Respondent's Evidence of Rehabilitation

14. Respondent is a single father who has joint custody of his son, age nine. Respondent pays child support to his son's mother. Respondent and his son's mother are co-parenting cooperatively and respondent pays child-support for his son.

15. In January 2020, respondent passed the Department's exam to become a licensed broker.

16. Respondent's legal troubles began when he became separated from the mother of his son. He became very depressed and started using alcohol to self-medicate.

17. After his most-recent conviction, respondent decided that he needed to change his life. He completed the court-ordered self-help classes and then he began attending Alcoholics Anonymous (AA) meetings, which he currently attends one to three times per week. Respondent no longer drinks alcohol and he has become very involved at Sandals Church. He is currently employed by EXT Realty and Debra Penny is his supervising broker. Respondent's clients are satisfied with his services.

18. Respondent submitted seven character reference letters from friends and work colleagues. Those letters collectively describe respondent as an honest and hardworking real estate salesperson who is well-liked by his clients.

19. One of respondent's client's is Joseph Barron (Barron), Corporal, Special Weapons and Tactics (SWAT), Ontario Police Department. Barron's character reference letter, dated August 30, 2020 (included in exhibit C), describes respondent as an outstanding real estate salesperson who has guided Barron through multiple real estate transactions. Barron is aware of respondent's convictions and that respondent's

license is subject to discipline. Nevertheless, Barron describes respondent as "a good person with exceptional morals."

20. No evidence was presented that respondent has ever misused his salesperson license or has failed to serve his clients. Respondent has no prior history of discipline with the Department. Respondent has been a licensed real estate salesperson for more than 16 years.

21. Respondent acknowledged that his convictions occurred during a very difficult time when he abused alcohol. Respondent expressed remorse for his criminal misconduct and he has taken steps rehabilitate himself.

Costs of Investigation and Prosecution

22. The Department incurred investigation costs of \$725.90. These costs are reasonable based on the declaration of complainant.

23. The Department incurred prosecution costs of \$576. These costs are reasonable based on the declaration of Kathy Yi.

LEGAL CONCLUSIONS

1. Business and Professions Code (Code) sections 490 and 10177, subdivision (b), permits the suspension or revocation of a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a licensed real estate salesperson. Therefore, it must be determined whether respondent's convictions are substantially related to the qualifications, functions, or duties of a licensed real estate salesperson.

2. The Department's criteria to determine whether a conviction is substantially related to the professional qualifications of a licensed real estate salesperson are defined in 11 categories which are stated in California Code of Regulations (CCR)², title 10, section 2910.

3. Respondent's 2017 and 2019 convictions are substantially related to the qualifications, functions or duties of a real estate licensee pursuant to CCR section 2910, subdivisions (a)(10) and (11). Respondent has suffered two or more convictions involving the consumption of alcohol, which demonstrates a pattern of repeated disregard of the law, and at least one of the convictions involved driving and the use of alcohol.

4. Cause exists pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), in conjunction with CCR section 2910, subdivisions (a)(10) and (a)(11), to suspend or revoke respondent's license because respondent's 2017 and 2019 convictions are substantially related to the qualifications, functions, or duties of a licensed real estate salesperson.

5. Cause exists pursuant to Business and Professions Code section 10186.2 to suspend or revoke respondent's real estate salesperson license because respondent failed to report his 2017 and 2019 convictions within 30 days.

6. Since cause exists to discipline respondent's real estate salesperson license, respondent bears the burden of establishing his rehabilitation. (Evid. Code §

² All further references are to Title 10 of the California Code of Regulations.

500.) The Department's criteria for evaluating a licensee's rehabilitation are stated in CCR section 2912. The application of those criteria is stated below.

7. Two years have elapsed since respondent's 2017 conviction, but not since his 2019 conviction. Respondent remains on conditional probation. Respondent's relationship with his son's mother has improved, he attends Sandals Church, he has stopped using alcohol, and he attends Alcoholics Anonymous meetings. Respondent's family life appears stable and he has been licensed for more than 16 years without any prior disciplinary issues. Respondent established that he is sufficiently rehabilitated to justify a restricted license, which will allow his broker and the Department to monitor his continuing progress.

8. There is a further analysis that supports allowing respondent to hold a restricted license. Respondent's convictions arose from his misconduct which occurred when his relationship with his son's mother was disintegrating. Without condoning respondent's actions, the dynamics of respondent's behavior were specific to the personal family issues. Respondent's misconduct during that time cannot be generalized to his business relations and interactions.

9. This administrative proceeding is not intended to impose punishment on respondent. Rather, its purpose is to protect the public. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) Under the facts of this case, a stayed revocation of respondent's license, and the issuance of a restricted real estate salesperson license to respondent, will adequately protect the public.

10. Pursuant to Code section 10106, the Department requested that respondent be ordered to pay the reasonable costs of the investigation and prosecution of this case. California Business and Professions Code section 10106,

provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. The Department incurred prosecution costs of \$576 and investigative costs of \$725.90. These costs are reasonable and should be paid by respondent.

ORDER

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

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the

Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor for the removal of any of the conditions, limitations or restrictions of a restricted license, until two years have elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

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

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

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

Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall 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.

7. Respondent Christopher Perea shall pay the Department its costs of prosecution and investigation which are \$576 and \$725.90, respectively. Respondent shall pay both amounts within 12 months of the effective date of this decision. The Department may offer, but is not obligated to do so, a payment plan regarding these costs to be paid by respondent to the Department.

DATE: 01/14/2021


Christopher Ruiz (Jan 14, 2021 08:33 PST)
CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings