

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

MAY 13 2024

DEPT. OF REAL ESTATE

By 

In the Matter of the Accusation of:

CHRISTOPHER LLOYD CURTIS,
Respondent.

* * *

) DRE No. H-42545 LA

) OAH No. 2024010071

DECISION

The Proposed Decision dated March 22, 2024, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

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

Pursuant to Government Code Section 11521, the Department of Real Estate (the Department) may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 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 JUN 12 2024.

IT IS SO ORDERED 5/7/2024

Chika Sunquist
REAL ESTATE COMMISSIONER


By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

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

In the Matter of the Accusation against:

Christopher Lloyd Curtis,

Respondent.

Agency Case No. H-42545 LA

OAH No. 2024010071

PROPOSED DECISION

Taylor Steinbacher, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on February 27, 2024, via videoconference.

Kevin H. Sun, Counsel, represented complainant Jason Parson, Supervising Special Investigator, Department of Real Estate (Department).

Respondent Christopher Lloyd Curtis appeared and represented himself.

The ALJ received testimony and documentary evidence at the hearing. At the close of the hearing, the ALJ kept the record open until March 1, 2024, to allow respondent to obtain and offer in evidence more legible and complete copies of Exhibits A and B. On February 27, 2024, respondent submitted those exhibits. Complainant did not object, and the ALJ marked the new copies of these documents

Exhibits A and B and admitted them into evidence. The record was closed and the matter was submitted for decision on March 6, 2024. After the record closed the ALJ redacted respondent's driver's license number from Exhibit 5 to preserve respondent's privacy.

SUMMARY

While intoxicated, respondent had an altercation with his then-fiancée, causing a small laceration to her face and an abrasion to her eye. Respondent was convicted of misdemeanor domestic violence. The Real Estate Commissioner (Commissioner) contends license discipline is appropriate due to respondent's conduct. As respondent's evidence of rehabilitation is substantial, outright revocation of respondent's license is unnecessary.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Commissioner issued real estate salesperson license number 02040058 to respondent in January 2018. (Ex. 2, p. A34.) Respondent's license was in effect at all times relevant and is scheduled to expire on January 23, 2026. (*Ibid.*)

2. On May 17, 2023, complainant, acting solely in his official capacity, filed an Accusation against respondent. (Ex. 1, pp. A1-A3.) The Accusation seeks to discipline respondent's license based on respondent's criminal conviction in December 2021. (*Id.*, p. A2.) Respondent timely filed a Notice of Defense. (*Id.*, p. A12.)

///

Respondent's Criminal Conviction

3. On December 15, 2021, the Superior Court of California, County of Orange, convicted respondent of one misdemeanor violation of Penal Code section 273.5(a) (corporal injury resulting in traumatic condition upon spouse/cohabitant), upon respondent's guilty plea in case number 20WM09204. (Ex. 3, pp. A57, A64–A67.) The court imposed the following sentence on respondent: (a) 30 days in the county jail; (b) three years of informal probation; (c) eight hours of community service; (d) 10 days of Cal Trans/Physical Labor; (e) completion of a 52-week Batterers' Treatment Program with an Alcohol component; (f) payment of various fines and fees totaling \$770.00; and (g) payment of restitution to the victim. (*Id.*, pp. A57–A61, A69.)

4. The facts and circumstances surrounding respondent's criminal conviction were that, on August 9, 2020, respondent and his then-fiancée had an altercation while inside her vehicle in which he struck her with a closed fist, kicked her, and hit her head against a car window. (Ex. 4, p. A79; Ex. 5, p. A92.) Because of the altercation, respondent's fiancée suffered a one-centimeter laceration on her forehead and an abrasion on her lower right eyelid. (Ex. 4, pp. A77, A81, A83.)

Respondent's Evidence

RESPONDENT'S CRIMINAL CONVICTION AND SENTENCE

5. Respondent is 34 years old. He was nearly 31 years old at the time of the altercation leading to his criminal conviction. Respondent felt embarrassment and shame at his actions; he characterized his conduct on August 9, 2020, as a one-time, "freak accident," fueled by alcohol. Respondent and his fiancée were married just a few months later—respondent loves his wife and is ashamed he hurt someone he loves.

Respondent understands he must live every day knowing what he did and must be accountable to ensure it never happens again. Although respondent did not dispute the facts underlying his criminal conviction and accepted responsibility for the pain and injuries he inflicted, he would not delve into much detail on his specific conduct that night, preferring not to discuss it during the hearing.

6. Respondent took immediate action in response to the altercation and his arrest. Respondent enrolled himself in a 10-hour anger management class, which he completed a month after the incident. (Ex. H.) He immediately abstained from further consumption of alcohol, and he has stayed sober for over three-and-a-half years. Respondent attended Alcoholics Anonymous (AA) meetings for a year after the incident until the court ordered him to attend the Batterers' Treatment Program. (Ex. 5, p. A89.) Respondent stopped attending AA meetings because he lacked the time to both attend those meetings and the court-ordered Batterers' Treatment Program meetings.

7. Respondent paid the court-ordered fines and fees on the day the court sentenced him. (Ex. 3, p. A60.) As for restitution, the court found there was no loss suffered by the victim and found that requirement was satisfied as of January 7, 2022. (*Id.*, p. A61.)

8. Respondent completed eight hours of court-ordered community service and 10 days of Cal Trans/Physical Labor by March 2022. (Ex. 3, p. A63.) As a result, on April 8, 2022, the court permanently stayed respondent's 30-day jail sentence. (*Ibid.*)

9. Respondent completed the court-ordered 52-week Batterers' Treatment Program with Alcohol Component by January 2023. (Ex. 3, p. A69; Ex. C.) The program required respondent to submit to quarterly alcohol and drug testing; he passed every

test during his participation in the program. As a result of respondent's good conduct—and on respondent's motion—the court terminated his informal probation early on January 23, 2023. (Ex. B.)

10. On February 10, 2023, respondent moved to have his criminal conviction expunged. (Ex. A.) On March 17, 2023, the court granted respondent's request, vacated respondent's guilty plea, entered a not guilty plea, and dismissed the underlying criminal complaint. (*Ibid.*) On November 17, 2023, the court ordered no information concerning respondent's now-expunged criminal conviction be disclosed except to respondent and a criminal justice agency as defined by statute. (Ex. I.) The court closed the case the next day (*Ibid.*)

RESPONDENT'S LIFE AFTER HIS CRIMINAL CONVICTION

11. As of January 2023, respondent's responsible broker is BBR SoCal Inc. (Ex. 2.) Respondent's responsible broker knows about respondent's criminal conviction. Respondent keeps his real estate salesperson license active to assist his family with real estate transactions, not because selling real estate is his primary source of income. Respondent has never had a consumer complaint about his real estate salesperson activity and has no history of discipline by the Commissioner.

12. Respondent previously worked as an account manager at Bank of America (Ex. 5, p. A87) but lost his job in June 2023. Recently, respondent applied for and received a vehicle salesperson license from the Department of Motor Vehicles. Respondent currently works as a salesperson at an automobile dealership in Rancho Mirage where he has worked since February 2024.

///

13. Respondent regularly attends church and sometimes teaches a Sunday school class there. He also gives to charity, including donating used clothes and shoes to the homeless.

14. If respondent could go back in time, he would never have consumed alcohol on the night of the altercation with his wife. Respondent understands and believes alcohol can alter a person's mind and cause a person to not think clearly. Respondent expressed profound remorse and regret at injuring his wife—respondent was moved to tears when discussing his conduct.

THIRD-PARTY TESTIMONY AND EVIDENCE

15. Respondent's wife Precious Curtis testified on his behalf and submitted a letter of support. (Ex. G.) Mrs. Curtis asserted respondent is a loving and caring person, and people who meet him also experience his loving and caring demeanor. Respondent works in customer service jobs because he finds joy in helping others.

16. Mrs. Curtis corroborated respondent's testimony that the only instance of domestic violence in their relationship was the incident in the car in August 2020. Mrs. Curtis explained if she had felt unsafe after the incident, she would have left respondent—she would not have married him a few months later or continued their relationship. Mrs. Curtis concedes respondent was wrong to assault her, but she also believes he learned from the mistake and acted to correct it. For example, respondent became sober, voluntarily took an anger management class, and complied with his probation terms. Respondent's good conduct while on court-ordered supervision led to early probation termination. Respondent and Mrs. Curtis have continued to work on and strengthen their relationship since getting married; respondent supports Mrs. Curtis emotionally and mentally, which she values tremendously.

17. Monique Thomas, respondent's mother-in-law, submitted a letter of support. (Ex. E.) Mrs. Thomas contends the incident in August 2020 was uncharacteristic of respondent. Mrs. Thomas believes respondent is a good family man and he made a mistake while under the influence of alcohol. She credits respondent with his sobriety since then, as well as seeking out counseling for himself and with Ms. Curtis.

18. Russell Thomas, respondent's father-in-law, submitted a letter of support. (Ex. F.) Mr. Thomas contends respondent's conduct in August 2020 was completely out of character for respondent. According to Mr. Thomas, respondent is a "God fearing man with a big heart." Respondent told Mr. Thomas what happened would never happen again; Mr. Thomas believes respondent.

Costs of Investigation and Enforcement

19. The Department incurred investigation costs of \$1,211.05 and enforcement costs of \$633.60, for a total amount of \$1,844.65, according to the certified statements of Kevin H. Sun, Counsel, and Jason Parson, Department Supervising Special Investigator. (Exs. 6, 7.)

20. Following the loss of his job at Bank of America, respondent experienced a multi-month stretch of unemployment which depleted his savings. Respondent is in arrears on his mortgage. Paying investigation and enforcement costs here would cause respondent added financial strain.

///

///

///

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. Complainant has the burden of proving cause for discipline against respondent by clear and convincing evidence to a reasonable certainty. (*The Grubb Co., Inc. v. Department of Real Estate* (2011) 194 Cal.App.4th 1494, 1505.) To meet the clear and convincing evidence standard, complainant must adduce proof that is clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

Applicable Law

2. The Commissioner has the full power to control the revocation of all licenses under the Real Estate Law. (Bus. & Prof. Code, § 10071.) This includes the real estate salesperson license. (Bus. & Prof. Code, § 10130.)

3. Under Business and Professions Code section 10177, subdivision (b)(1), the Commissioner may suspend or revoke the license of a real estate licensee who has:

Entered a plea of guilty . . . or been convicted of, a felony,
or a crime substantially related to the qualifications,
functions, or duties of a real estate licensee, . . . irrespective
of an order granting probation following that conviction,
suspending the imposition of sentence, or of a subsequent
order under Section 1203.4 of the Penal Code allowing that
licensee to withdraw that licensee's plea of guilty and to

enter a plea of not guilty, or dismissing the accusation or information.

4. Similarly, Business and Professions Code section 490, subdivisions (a) and (b), provide a board may suspend or revoke a license, or exercise any authority to discipline a licensee, for conviction of a crime that is substantially related to the qualifications, functions or duties of the business or profession for which the license was issued.

5. California Code of Regulations, title 10 (CCR), section 2910, subdivision (a), provides:

When considering whether a license should be . . .
suspended or revoked on the basis of the conviction of a
crime, . . . the crime or act may be deemed to be
substantially related to the qualifications, functions or
duties of a licensee of the Department within the meaning
of Sections 480 and 490 of the [Business and Professions]
Code if it involves: [¶ . . . ¶] (8) Doing of any unlawful act . . .
with the intent or threat of doing substantial injury to the
person or property of another.

6. Conduct occurring outside the practice of real estate may justify disciplining a license because such conduct reflects on the licensee's fitness and qualifications to practice. (CCR, § 2910; *Donley v. Davi* (2009) 180 Cal.App.4th 447, 463-466 [conviction for violating Penal Code section 273.5 was substantially related to the duties of a Department of Real Estate licensee].)

///

7. CCR section 2910, subdivision (c), states, in part: "The nature and gravity of the offense, the number of years that have elapsed since the date of the offense, and the nature and duties of a real estate licensee shall be taken into consideration when determining whether to deem an offense to be substantially related to the qualifications, functions or duties of a licensee."

Cause for Discipline

8. Complainant proved by clear and convincing evidence respondent was convicted of violating Penal Code section 273.5(a) (corporal injury resulting in traumatic condition upon spouse/cohabitant). (Factual Finding 3.) Respondent's crime involved striking his then-fiancée causing a laceration on her forehead and an abrasion on her eyelid. (Factual Finding 4.) Respondent's criminal conviction is for a crime that is substantially related to the qualifications, functions, and duties of a real estate salesperson license because it involved the intent or threat of doing substantial injury to the victim. (Legal Conclusion 5.) By regulation, this crime is substantially related to a real estate licensee's qualifications, functions, or duties, even though they did not involve the practice of real estate. (Legal Conclusions 5–6.) Cause therefore exists to discipline respondent's license under Business and Professions Code sections 10177, subdivision (b)(1), and 490, subdivisions (a) and (b).

Disposition

9. As cause for discipline against respondent's real estate salesperson license has been established, respondent bears the burden of establishing sufficient rehabilitation to justify his continued licensure. (See *Hanna v. Dental Bd. of California* (2012) 212 Cal.App.4th 759, 766 [affirming license revocation where respondent

"presented no evidence of rehabilitation"]; *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.)

10. The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Mere remorse does not demonstrate rehabilitation but can be considered as a mitigating factor. (*In re Demergian* (1989) 48 Cal.3d 284, 296.) A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

11. Respondent contends his license should not be disciplined. Rehabilitation is a "state of mind" and "the law looks with favor upon rewarding with the opportunity to serve" those who have achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)

12. The Department's criteria of rehabilitation, contained in CCR section 2912, subdivisions (a) through (m), are to be considered in evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of a license has been initiated. The criteria relevant to this proceeding are summarized as follows: (a) the time elapsed since the commission of the act or offense; (b) restitution to any person who suffered monetary losses; (c) expungement of the conviction; (e) successful completion or early discharge from probation or parole; (f) abstinence from the use of controlled substances and/or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance and/or alcohol; (g) payment of any court-ordered fine; (i) new and different business and social relationships from those existing at the time of the crime or acts; (j) stability of family life and fulfillment of familial responsibilities; (k) completion of or sustained enrollment in formal educational or

vocational training courses for economic self-improvement; (l) significant and conscientious involvement in community, church, or private programs designed to provide social benefits or ameliorate social problems; and (m) change in attitude from that which existed at the time of the commission of the criminal acts in question.

13. Respondent meets nearly all the applicable rehabilitation criteria. More than two years have passed since respondent's criminal conviction and four years have passed since the underlying conduct leading to his criminal conviction. (Factual Findings 3–4.) Complainant did not argue—and the evidence does not suggest—respondent's crime was of a nature or severity such that the lookback period should be greater than two years. (See CCR, § 2912, subd. (a)(2).) The court initially ordered payment of victim restitution but later found restitution to be unnecessary. (Factual Finding 7.) Respondent immediately paid court-ordered fees and fines after his criminal conviction. (*Ibid.*) Respondent's good conduct led to the court permanently staying his jail sentence. (Factual Finding 8.) And respondent's further good conduct and satisfaction of court-ordered community service hours, physical labor requirements, and completion of the Batterers' Treatment Program led the court to terminate his informal probation early. (Factual Findings 8–9.) Respondent successfully petitioned to expunge his criminal conviction. (Factual Finding 10.) Respondent has been sober for over three-and-a-half years. (Factual Finding 6.) Respondent has made new business relationships by obtaining an additional occupational license from the Department of Motor Vehicles while maintaining in good standing his real estate salesperson's license. (Factual Findings 11–12.) Respondent and his wife were married shortly after the incident and continue to have a strong, loving relationship, as shown by respondent's testimony, his wife's testimony, and his in-laws' support letters. (Factual Findings 5, 15–18.) Respondent is active in his church, teaches Sunday school, and donates to charity. (Factual Finding 13.) Respondent has no prior history of

discipline regarding his license and has received no consumer complaints about his licensed activity. (Factual Finding 11.) Respondent expressed remorse for his conduct and demonstrated a change in attitude by immediately abstaining from alcohol after the incident, seeking out anger management and AA meetings, and showing exemplary conduct while under court supervision. (Factual Findings 6–9, 14.) Respondent did this even though the evidence shows his conduct in August 2020 was an aberration and not consistent with his good character until then. (Factual Findings 16-18.) Respondent's self-reflection and insight into his conduct are praiseworthy.

14. Respondent's conduct was lamentable. But respondent immediately took remedial steps to ensure he would not engage in similar conduct again. Respondent demonstrated the public will be adequately protected if his real estate salesperson's license is revoked and a restricted license is made available to respondent upon his application.

Cost Recovery

15. Under Business and Professions Code section 10106, subdivision (a), in any order issued to resolve a disciplinary proceeding before the Department, "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."

16. A certified copy of the Department's actual costs signed by the Commissioner or the Commissioner's designated representative is prima facie evidence of reasonable costs of investigation and enforcement of the case. (Bus. & Prof. Code, § 10106, subd. (c).) The costs must include the amount of investigative and

enforcement costs up to the date of the hearing. (*Ibid.*) The Department established the total costs incurred here were \$1,844.65 (Factual Finding 20.)

17. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court of California set forth factors in determining the reasonableness of the costs sought under statutory provisions like Business and Professions Code section 10106. Those factors include (1) the licentiate's success in getting the charges dismissed or reduced; (2) the licentiate's subjective good-faith belief in the merits of his or her position; (3) whether the licentiate raised a colorable challenge to the proposed discipline; (4) the licentiate's financial ability to pay; and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman, supra*, 29 Cal.4th at p. 45.)

18. Respondent will suffer financial hardship if required to pay the entirety of the Department's investigation and enforcement costs. Respondent was recently unemployed for six to seven months and he depleted his savings as a result. (Factual Findings 12, 20.) Respondent is in arrears on his mortgage and only recently began working as a licensed automobile salesperson. (*Ibid.*) Respondent was also successful in avoiding outright revocation of his license. As a result, the costs are reduced by 60 percent, and respondent is ordered to pay complainant's reasonable costs of \$737.86.

ORDER

All licenses and licensing rights of respondent Christopher Lloyd Curtis 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 one year has 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 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

7. Respondent shall pay the Department \$737.86 for its costs of enforcement and investigation in this matter. Respondent shall pay those costs within

six months of the effective date of this Decision or on a payment plan acceptable to the Department.

DATE: 03/22/2024



TAYLOR STEINBACHER

Administrative Law Judge

Office of Administrative Hearings