

FILED

MAY 28 2024

DEPT. OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of:	)	DRE No. H-42773 LA
	)	
RILEY BEHRENS,	)	OAH No. 2024010130
	)	
Respondent.	)	

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DECISION

The Proposed Decision dated April 19, 2024, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

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

The first sentence of paragraph number 6 on page 3 shall now be amended to:  
“The underlying circumstances are that at different times in late 2018 and early 2019, respondent reported to police in Tempe, Arizona, that a coach of her rugby team had raped respondent.”

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson 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.

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

This Decision shall become effective at 12 o'clock noon on June 17, 2024.

IT IS SO ORDERED 5/17/2024

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 Statement of Issues Against:**

**RILEY BEHRENS, Respondent.**

**Agency Case No. H-42773 LA**

**OAH No. 2024010130**

**PROPOSED DECISION**

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on March 7, 2024.

Diane Lee, Staff Counsel, represented Complainant, Veronica Kilpatrick, Supervising Special Investigator, Department of Real Estate (Department), State of California. Riley Behrens, respondent, represented himself.

Complainant moved for a protective order sealing confidential records and to seal Exhibits 4, 6, and 7. The motion, marked Exhibit 10 for identification, was granted at the start of the hearing. The protective order sealing Exhibits 4, 6, and 7 is marked for identification as Exhibit 11.

Documents and testimony were received in evidence. The record was held open until March 19, 2024, for respondent to submit additional documents, and until March 22, 2024, for Complainant's response.

No additional documents were submitted. The record closed and the matter was submitted for decision on March 22, 2024.

## **STATEMENT OF THE CASE**

In 2018 and 2019, respondent showed profound disrespect for the police. He was convicted of two crimes as a result. In early 2020 respondent quit alcohol and the abuse of other substances, at the root of his troubles and the troubles he caused others. Other substantial evidence points to rehabilitation in substantial measure.

## **FINDINGS OF FACT**

1. Complainant served the Statement of Issues on December 13, 2023. Respondent timely requested a hearing in a Notice of Defense dated December 20, 2023.

### **Application**

2. Respondent applied for a real estate salesperson license on January 5, 2023.

### **Criminal Convictions**

3. On April 24, 2019, in the Tempe Municipal Court, County of Maricopa, State of Arizona, case number 19-008742-1, on a plea of guilty, respondent was convicted of violating section 22-6 of the Tempe City Code, hindering or interfering with police, a misdemeanor. The court fined respondent \$300.

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4. The underlying circumstances are that on February 28, 2019, respondent was part of a crowd protesting outside the Tempe City Council Chambers. Police were there for crowd control. After a protester was arrested for obstructing vehicle traffic, respondent spat on one of the uniformed officers, fled the scene running, but was quickly arrested.

5. On May 20, 2019, in the Tempe Municipal Court, County of Maricopa, State of Arizona, case numbers 19-012596-2 and 19-012597-2, on a plea of guilty, respondent was convicted of violating section 13-2907-A by falsely reporting an emergency to law enforcement on two separate occasions, both misdemeanors. The court sentenced respondent to one year of supervised probation on terms and conditions that are not in the record, except that restitution in an amount not in the record and counseling were included.

6. The underlying circumstances are that at different times in late 2018 and early 2019, respondent reported to police in Tempe, Arizona, that a coach of her rugby team had raped respondent, who was then a female who had not yet transitioned to being male. Respondent later admitted to police that the coach she had accused did not exist, the bones in her hand were broken not during a rape but rather while she played rugby, and respondent had no pregnancy or miscarriage as she reported. The police spent over a hundred hours listening to respondent's elaborate accusations but learned the truth after subpoenaing telephone records showing respondent had fabricated and sent the threatening messages herself that she represented were sent by her rugby coach.

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## **Respondent's Evidence**

7. Respondent was addicted to alcohol and other drugs at the time of the 2018 and 2019 crimes. He was addicted to alcohol and drugs like Oxycontin, consuming them daily and to such an extent he would become physically ill if deprived of them. Respondent decided to become sober when his little brother, when asked what he wanted for his birthday, said his one wish was that respondent stop using drugs and alcohol. Respondent has been sober since January 6, 2020 and has worked on turning his life around.

8. Respondent attends four Alcoholics Anonymous (AA) meetings weekly. He is still active, playing soccer, and may sometimes miss his regular Saturday evening AA meeting to play soccer with a team. He increases his AA attendance when he feels the need. His AA sponsor is Brian Vandersmith. Respondent is AA sponsor to two other people.

9. Respondent has a Bachelor of Arts degree in political science and business from the University of California at Berkeley. He took online courses offered by Harvard University for a master's degree in 2022 in organizational leadership and corporate sustainability.

10. Respondent had planned to live in Arizona for only a year to play rugby with a good rugby team there, but ended up staying four years. During this time, respondent had a number of odd jobs, working for a time as an aide in a special education classroom in Meza, Arizona, as a policy advisor on some political campaigns, and as a receptionist for Meza Airlines.

11. What respondent hopes will be a career in real estate started when the Arizona Department of Real Estate granted respondent a license on March 22, 2021.

The license history shows that respondent worked as a salesperson for Keller Williams Arizona Realty and Coldwell Banker Realty. The license expired on March 31, 2023.

12. In December 2023, respondent went before the California Superior Court, County of Riverside, case number PRIN 2301633, for an order appointing him temporary guardian of a minor. The minor lives with respondent and he is the child's sole financial support. The plan is that the minor will live with respondent indefinitely. In consequence respondent has been examined and scrutinized by authorities responsible for children's welfare.

## **LEGAL CONCLUSIONS**

1. Complainant presented a prima facie case for denying respondent's application based on his criminal convictions. The burden of proof then shifted to respondent under Evidence Code sections 115 and 500 to demonstrate by a preponderance of the evidence circumstances and good character that warrant issuing him a salesperson's license.

2. Under Business and Professions Code sections 475, subdivision (a)(2), 480, subdivision (a), and 10177, subdivision (b), the Department may deny respondent's license application based on his conviction of a crime within the seven years before his application so long as the crime has substantial relationship to the qualifications, functions, or duties of a real estate licensee.

3. Each of the regulations cited below, promulgated by the Real Estate Commissioner pertinent to license applications, is a section of title 10 of the California Code of Regulations.

4. Regulation 2910 states that substantial relationship may be deemed to exist between a real estate licensee's qualifications, functions, or duties and a crime if it involves:

Under subdivision (a)(2), the uttering of a false statement;

Under subdivision (a)(4), fraud, deceit, falsehood or misrepresentation to achieve an end; and

Under subdivision (a)(10) conduct demonstrating a pattern of repeated and willful disregard of law.

5. Regulation 2910, subdivision (c), provides 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. The Department's consideration of these factors in assessing the substantial relationship of an offense does not alter, or act in place of, consideration of these same factors in the Criteria for Rehabilitation

6. Regulation 2911, subdivision (a), sets out the criteria for evaluating whether an applicant is rehabilitated for purposes of issuing a license. Pertinent considerations under the relevant subdivisions are discussed below.

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## ANALYSIS

7. Under the influence of drugs, respondent did harm, both to himself and others. Among those particularly harmed was law enforcement. Respondent's inexplicable conduct in leading police investigators on a wild goose chase was egregious, a weeks-long exercise in deception that did no more than consume public resources to no purpose.

8. Respondent was prolonging such disrespect for those charged with keeping the peace as he showed during an unruly protest against City Hall. His conduct during the protest sprang from an understandable emotion, respondent's feeling for a fellow protester, but later his fabrications about rape and pregnancy are so far removed from any sort of legitimacy as to be all but outrageous and next to incomprehensible.

9. Respondent admitted at the hearing that in truth he could not explain his misconduct toward the police, except by admitting that his drug and alcohol addictions came close to destroying his ability to act rationally. Fortunately respondent still had care for his family and himself as part of a family, listening to his younger brother's wish for well-being, instead of the destructive habits that could have turned irremediable had not respondent halted his substance abuse and changed his attitude.

10. Respondent's misconduct was substantially related to licensure pursuant to Regulation 2910. Under subdivision (a)(2) of the regulation, respondent made false statements in communicating with police officers. Under subdivision (a)(4), respondent was deceitful with the police and used falsehood and misrepresentation to induce police to continue with an investigation for no good reason. Under subdivision (a)(10)

all of respondent's improper conduct toward the police demonstrated a pattern of repeated and willful disregard of law.

11. Cause exists under Business and Professions Code sections 475, subdivision (a)(2), 480, subdivision (a), and 10177, subdivision (b), to deny licensure as respondent was convicted of crimes substantially related to licensure within the seven years before his application.

12. Approximately five years have passed since respondent's misconduct. The two-year period considered minimal for rehabilitation under Regulation 2911, need not be extended under the regulation's subdivision (a)(1)(B). Respondent's crimes were of a deceptive nature, based on animus against authority. The crime of making false reports was severe in that respondent elaborated his fabrications for weeks. But respondent has halted a root cause of his trouble, his drug and alcohol addiction. He has shown no animus against any authority since early 2019. On the contrary, his passing muster with the Superior Court and authorities responsible for children's welfare speaks to a new and cooperative attitude toward authority. Respondent is not likely to repeat his past misconduct.

13. Rehabilitation is indicated under Regulation 2911, subdivision (a)(5), by respondent's having fulfilled the terms of probation in each of the criminal cases.

14. Rehabilitation is likewise indicated under Regulation 2911, subdivision (a)(6). Respondent has abstained from the use of controlled substances and alcohol for more than four years. As noted above, respondent has removed a chief cause for the trouble in a period of his life that culminated, and hopefully ended for good, in early 2019.

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15. Under subdivision (a)(8) of Regulation 2911, respondent has created stability in his family life. In proceedings to make him guardian of a minor, respondent is moving toward fulfillment of parental and familial responsibilities subsequent to his convictions and the conduct that is the basis for the Statement of Issues against him. These efforts relating to family relations should also count toward a finding of rehabilitation in some measure under subdivision (a)(12) of the regulation, for significant or conscientious involvement in community program to ameliorate social problems, in this case a child in need of a stable home.

16. Under Regulation 2911, subdivision (a)(14), respondent's attitude has notably changed for the better, far better, from that existing at the time of the conduct in question. This consideration is supported not only by respondent's testimony, but the records of the Superior Court regarding custody of a minor and the absence of misconduct of any kind since early 2019.

17. The evidence weighs in favor of finding respondent mostly rehabilitated and currently fit for licensure. Nevertheless, a brief period of license restriction is appropriate. Respondent seems to have conquered decisively his addictive tendencies of the past, but substance abuse is notoriously difficult to defeat permanently. A probationary license may help ensure that respondent will not slide back toward any sort of dangerous consumption and disorder.

## **ORDER**

The application of respondent, Riley Behrens, for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions

Code. The restricted license issued to the 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 the Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

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

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent shall notify the Real Estate 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.

DATE: 04/19/2024

*Thomas Lucero*

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings