

**FILED**

JUN 12 2025

DEPT. OF REAL ESTATE

By- [REDACTED]

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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|--------------------------------------|---|--------------------|
| In the Matter of the Application of: | ) | DRE No. H-43031 LA |
|                                      | ) |                    |
| ANDY CASTILLO,                       | ) | OAH No. 2025020690 |
|                                      | ) |                    |
| Respondent.                          | ) |                    |

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DECISION

The Proposed Decision dated April 28, 2025, 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 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 thirty (30) days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

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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 JUL 02 2025.

IT IS SO ORDERED June 4, 2025

Chika Sunquist  
REAL ESTATE COMMISSIONER

A black rectangular redaction box covering the signature of the Commissioner.

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

**In the Matter of the Application of:**

**ANDY CASTILLO,**

**Respondent.**

**Agency Case No. H-43031 LA**

**OAH No. 2025020690**

**PROPOSED DECISION**

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter via videoconference on March 27, 2025.

Steve Chu, Attorney, appeared and represented complainant Ray Dagnino, a Supervising Special Investigator of the State of California.

Respondent Andy Castillo appeared and represented himself.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on March 27, 2025.

## **SUMMARY**

The Department of Real Estate (Department) seeks to deny respondent's real estate salesperson license application because he sustained a criminal conviction for aggravated assault in Arizona in 2023. The evidence of respondent's rehabilitation from this criminal conviction shows the public will be protected if he receives a restricted license.

## **FACTUAL FINDINGS**

### **Background and Procedural History**

1. On July 11, 2024, respondent applied for a real estate salesperson license. (Ex. 2.)

2. On January 30, 2025, complainant filed a Statement of Issues against respondent, stating respondent's application should be denied. (Ex. 1, pp. A1–A3.) The Statement of Issues alleges that, on February 23, 2023, respondent sustained a felony criminal conviction for aggravated assault in the Superior Court of Arizona, County of Maricopa. The Statement of Issues asserts respondent's criminal conviction is substantially related to the qualifications, functions, or duties of a real estate licensee and is cause for denial of his license application under Business and Professions Code section 475, subdivision (a)(2) and (3), section 480, subdivision (a)(1) and (2), and section 10771, subdivision (b)(1).

3. Respondent timely filed a Notice of Defense. (Ex. 1, p. A4.)

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## 2023 Criminal Conviction

4. On February 23, 2023, after pleading guilty in the Superior Court of Arizona, Maricopa County, case number CR2022-125737-001, respondent was convicted of one felony violation of Arizona Revised Statutes section 13-1204, subdivision (a)(4) (aggravated assault while victim is bound or physically restrained or victim's ability to resist is substantially impaired). (Ex. 3, pp. A82–A83.) The court sentenced respondent to two years of supervised probation with certain terms and conditions, including: (1) prohibiting respondent from consuming or possessing any substances containing alcohol; (2) prohibiting respondent from having contact with the victim; (3) participation in a domestic violence offender treatment program; and (4) payment of various fees and fines. (*Id.* at p. A90.)

5. Before respondent's sentencing, the victim told a court probation officer she wanted to have contact with respondent "for closure purposes." (Ex. 3, pp. A85, A95; Ex. 5, p. A119.) On May 22, 2023, the court struck the probation condition prohibiting respondent from contacting the victim. (Ex. 3, p. A95.) That same date, the court also reduced the underlying offense from a felony to a misdemeanor. (*Ibid.*) On February 23, 2024, the court granted respondent's request to terminate his probation a year early. (*Id.* at p. A96.)

6. The facts and circumstances of this criminal conviction were that, on July 10, 2022, police responded to a domestic complaint in Buckeye, Arizona. Police contacted respondent's girlfriend "VK," the reporting party, who was crying and shaking. VK reported to police she had a verbal altercation with respondent about him moving out of their residence. While lying in bed, VK began recording a video with her cellular telephone because she believed respondent was going to become violent. Respondent grabbed VK's phone and threw it across the room and against the wall.

Respondent then got on top of VK by placing one of his knees into her ribs and grabbed her hair with his right hand. Respondent then struck VK in the stomach approximately four times and placed his hand around her neck and throat.

VK attempted to break free by punching respondent multiple times. When the police arrived, redness was visible above VK's rib cage and the lower portion of her neck area near her throat. Respondent admitted he "mounted" VK from the side and placed his knee on her ribs, punched her in the stomach, pulled her hair, and placed his hand on her neck area (in an attempt to hold her down), but denied choking her. (Ex. 3, p. A85; Ex. 4, pp. A101-A102, A107.)

## **Respondent's Evidence**

### **RESPONDENT'S TESTIMONY**

7. Respondent was honorably discharged from the United States Army in 2020. (Ex. B.) Respondent has several revenue streams: (1) he owns a business flipping houses for sale in Arizona; (2) he operates an AirBnB; and (3) he is a commissioned notary in Arizona. (Exs. A, C, E, G.), Respondent would like to expand his home flipping business to California and is seeking a license to further that goal.

8. Respondent held his Arizona notary commission at the time of his criminal conviction in 2023, but the state did not initiate discipline proceedings on that commission based on respondent's criminal conviction. Respondent also has a "Level One Fingerprint Clearance Card," which will allow him to take an Arizona real estate licensing examination and receive a license if he passes the exam. (Ex. I.)

9. In his hearing testimony, respondent expressed remorse for his crime. He testified that he immediately knew that assaulting his then-girlfriend was wrong and he has accepted responsibility for, and the consequences of, his misconduct.

Respondent attributed his misconduct to a mixture of stress from his business and impairment from alcohol. (See Ex. 5, p. A116.; Ex. 6, p. A123.)

10. Respondent testified his issues with alcohol first began in 2018 when he was in the military, as drinking was an expected part of military culture. According to respondent, his arrest caused him to reflect upon his relationship with alcohol. Respondent concluded that alcohol hinders his life, and he does not need it. Although respondent does not maintain complete sobriety, he drinks much less often than he did before his arrest. Respondent believes he no longer has a problem with alcohol. Respondent testified the last time he drank alcohol was around Christmas of 2024.

11. As noted above, a condition of respondent's probation was that he was prohibited from consuming or possessing any substances that contained alcohol. On October 17, 2023, respondent's probation officer came to his house and gave him a breathalyzer test. The first test result was a 0.018. Respondent explained to his probation officer that he had just rinsed his mouth with mouthwash containing alcohol. Respondent's probation officer had respondent brush his teeth and give another breathalyzer sample. The second test result was 0.015. Following these tests, respondent was ordered to submit to a random alcohol and blood test on November 28, 2023, and respondent tested negative for any prohibited substances at that time. Respondent's probation officer apparently believed respondent's explanation for respondents' breathalyzer test results, as court records do not suggest the court revoked respondent's probation or took any action against respondent as a result. (See Ex. 3.)

12. A month or two after his arrest, respondent voluntarily completed a 40-hour online domestic violence education class. As required by the court, respondent also completed a different, 56-week in-person domestic violence treatment class.

Respondent completed all aspects of his criminal sentence, including payment of fees and fines, before his request for early termination of his summary probation was approved by the court. The court did not order respondent to pay any restitution to VK. Respondent and VK continued their relationship after the court struck the term of respondent's probation prohibiting contact with VK, but as of now, they are no longer together.

13. Respondent submitted a request to the Veteran's Administration (VA) to receive mental health services but was only recently placed with a therapist in February 2025. (Ex. H.) According to respondent, there is a long waiting list to receive those services from the VA. Respondent stated that going to therapy has helped him understand past traumas and how they currently affect him.

14. Respondent testified he investigated whether his criminal conviction in Arizona could be expunged, but it was his understanding that Arizona law did not allow it.

#### **CHARACTER WITNESS TESTIMONY**

15. Kayla Frey has known respondent since January 2025. Frey believes respondent has a good attitude and seems to be a very balanced person, and that respondent's character is respectable. Frey testified respondent does not drink alcohol often, and when he does, she has never seen him drink to excess. Rather, respondent is usually the first person to offer to be a designated driver for others. Frey last saw respondent drink alcohol in January 2025.

16. Gabriel Arias served with respondent in the Army. Arias testified that the culture of the Army encourages drinking alcohol and that respondent developed a drinking problem when he was younger as a result of being within that culture. Now,

however, respondent does not drink as much as he did before. Arias last saw respondent drink alcohol in December 2024.

## **LEGAL CONCLUSIONS**

### **Applicable Law**

1. The Real Estate Commissioner (Commissioner) “has full power to regulate and control the issuance . . . of all licenses . . . .” (Bus. & Prof. Code, § 10071.) (All further undesignated statutory references are to the Business and Professions Code.) This includes the real estate salesperson license. (§ 10130.)

2. Section 475, subdivision (a), provides that Division 1.5 of the Code (sections 475 through 499) governs license denials on the grounds of conviction of a crime or commission of any act with the intent to substantially injure another. (§ 475, subd. (a)(2), (3).)

3. Section 480, subdivision (a)(1), in relevant part, states an agency may deny a license because the applicant has been convicted of a crime if the criminal conviction has occurred within seven years of the date of the application and the criminal conviction is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. (See also *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 769–770 [criminal conviction cannot form the basis for a license denial unless the criminal conduct underlying the conviction is substantially related to the qualifications, functions, or duties of the license].)

4. Section 480, subdivision (a)(2), in relevant part, states an agency may deny a license because the applicant has been subjected to formal discipline by a

licensing board in or outside California within the preceding seven years from the date of the application that would have been cause for discipline before the board for which the application is made and is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

5. Section 10177, subdivision (b)(1), in relevant part, states the Commissioner may deny a license to an applicant who has entered a plea of guilty to a felony or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal.

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

When considering whether a license should be denied, . . .  
on the basis of the conviction of a crime, . . . the crime . . .  
may be deemed to be substantially related to the  
qualifications, functions or duties of a licensee of the  
Department within the meaning of Section[] 480 . . . of the  
Code if it involves:

[¶] . . . [¶]

(8) Doing any unlawful act . . . with the intent or threat of  
doing substantial injury to the person or property of  
another.

7. The Commissioner shall take into consideration 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, in deciding whether an offense is substantially related to the qualifications, functions, or duties of a licensee. (CCR, § 2910, subd. (c).)

## **Burden and Standard of Proof**

8. Respondent bears the burden of proving he meets all prerequisites necessary for the requested license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.) This burden requires proof by a preponderance of the evidence, which means "more likely than not." (Evid. Code, § 115; *Sandoval v. Bank of America* (2002) 94 Cal.App.4th 1378, 1388.)

## **Analysis**

### **CAUSES FOR DENIAL**

9. Respondent assaulted his then-girlfriend by holding her down, placing his knee on her ribs, punching her in the stomach, pulling her hair, and placing his hands around her neck. Respondent's crime therefore involved an unlawful act with the threat of doing substantial injury to the person or property of another, under CCR section 2910, subdivision (a)(8). Although respondent's crime did not relate to the day-to-day client service work of a real estate licensee, the nature and gravity of respondent's offense are serious and occurred less than three years ago. Accordingly, respondent's crime is substantially related to the qualifications, functions, or duties of a real estate salesperson licensee. (Legal Conclusions 6–7.)

10. Respondent's criminal conviction occurred less than seven years ago such that section 480, subdivision (a)(1), applies. Cause therefore exists to deny respondent's application for a real estate salesperson license based on respondent's

criminal conviction for a crime substantially related to the qualifications, functions, or duties of a real estate licensee under Business and Professions Code section 475, subdivision (a)(2) and (3), section 480, subdivision (a)(1), and section 10177, subdivision (b).

11. Cause does not exist to deny respondent's application for a real estate salesperson license under section 480, subdivision (a)(2). There is no evidence respondent was subject to formal discipline by a licensing board in or outside California within seven years of the date of his license application. On the contrary, the undisputed evidence is that respondent maintained his commission as a notary in Arizona despite his criminal conviction in 2023. (Factual Finding 8.)

## **REHABILITATION**

12. The Department "has developed 14 criteria to be used to evaluate rehabilitation of an applicant for a license who has committed a crime. These criteria attempt to gauge whether the applicant has changed so that a repeat of his criminal behavior is unlikely." (*Singh v. Davi* (2012) 211 Cal.App.4th 141, 148–149, citing CCR, § 2911, subd. (a), fn. omitted.) The evidence relating to those criteria is as follows:

(1) The time that has elapsed since commission of the acts(s) or offense(s), although the passage of less than two years from the most recent criminal conviction or act is inadequate to demonstrate rehabilitation. 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.) A truer indication of rehabilitation is sustained conduct over an extended period. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent's criminal conviction occurred in February 2023,

which is more than two years from the date the hearing occurred but is still relatively recent.

- (2) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant. Respondent was not ordered to pay restitution to the victim. (Factual Finding 12.)
- (3) Expungement of criminal convictions. Respondent's criminal record has not been expunged and respondent testified that there is no procedure allowing him to expunge his criminal conviction in Arizona. (Factual Finding 14.)
- (4) Expungement or discontinuance of a requirement of registration pursuant to the provisions of section 290 of the Penal Code. Respondent was not required to register as a sex offender Penal Code section 290—this factor does not apply.
- (5) Successful completion or early discharge from probation or parole.  
Respondent received an early discharge from probation. (Factual Finding 5.)
- (6) Abstinence from the use of controlled substances and/or alcohol for not less than two years if the conduct which is the basis to deny the Department action sought is attributable in part to the use of controlled substances and/or alcohol. Respondent acknowledged his underlying criminal conduct was attributable to alcohol. (Factual Finding 9.) Respondent drinks less than he once did, but he does not completely refrain from the use of alcohol. (Factual Findings 10, 15–16.)
- (7) Payment of the fine and/or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment. Respondent paid all

finest and penalties imposed by the court in connection with his criminal case. (Factual Finding 12.)

(8) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the Department action sought. Respondent and VK continued their relationship after the court struck the term of respondent's probation prohibiting him from contacting VK, but as of now, they are no longer together. (Factual Finding 12.)

(9) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement. Respondent has completed several of the requirements to obtain a real estate license in Arizona, which culminated in that state issuing him a "Fingerprint Clearance Card." According to respondent, possession of this card will allow him to take the relevant Arizona examination, and, if he passes that examination, he will be issued a license. (Factual Finding 8.)

(10) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others. Aside from respondent's payment of court-ordered fees and fines discussed above, there was no evidence that respondent has debts or monetary obligations that are owing and related to his criminal case.

(11) Correction of business practices resulting in injury to others or with the potential to cause such injury. The evidence does not show respondent's crime related to business practices.

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- (12) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems. Respondent submitted no evidence about this factor.
- (13) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the Department action sought. Respondent submitted little evidence about this factor. As noted above, respondent and VK are no longer together. The only evidence of a new relationship was from Frey, who had only known respondent for three months at the time of the hearing. (See Factual Finding 15.)
- (14) Change in attitude from that which existed at the time of the conduct in question. Of the many rehabilitation criteria, change in attitude is "arguably the most important in predicting future conduct . . ." (*Singh, supra*, 211 Cal.App.4th at p. 149.) Evidence about this factor is mixed. Respondent attributed his criminal conduct in part to alcohol intoxication. But respondent presented inconsistent evidence about how often he consumes alcohol. Respondent and Arias testified respondent last drank alcohol in December 2024, while Frey testified she has only known respondent since January 2025, but has seen him drink alcohol at least once since then. (See Factual Findings 10, 15–16.) On the other hand, respondent submitted evidence suggesting a change in attitude, such as his voluntary completion of a domestic violence education course shortly after his arrest and participation in counseling from the VA. (Factual Findings 9, 12–13.)

Respondent's expression of remorse for his criminal conduct also appeared to be sincere.

13. Respondent recognizes the circumstances of his crime are serious, and the underlying conduct occurred less than three years ago. For purposes of these licensing proceedings, however, "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.) Ultimately, the purpose of licensing proceedings is to protect the public. (*Borror v. Department of Investment* (1971) 15 Cal.App.3d 531, 540.) The evidence of rehabilitation respondent presented shows the public will be adequately protected if the Department issues respondent a restricted real estate salesperson license at this time.

## **ORDER**

Respondent Andy Castillo's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to respondent shall be subject to all the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

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

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- (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 three 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 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: 04/28/2025



TAYLOR STEINBACHER

Administrative Law Judge

Office of Administrative Hearings