

FILED

DEPARTMENT OF REAL ESTATE

FEB 01 2012

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

* * * * *

In the Matter of the Accusation of)
)
)
 CHARLES R. CRITES II,)
)
)
 Respondent.)
 _____)

No. H-37058 LA
L-2011050089

DECISION

The Proposed Decision dated January 3, 2012, 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.

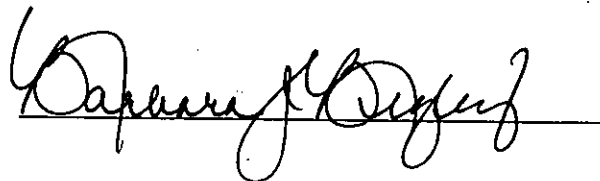
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 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 FEB 21 2012.

IT IS SO ORDERED 1/26/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

In the Matter of the Accusation Against:

CHARLES R. CRITES, II

Respondent.

Case No. H-37058 LA

OAH No. 2011050089

PROPOSED DECISION

Administrative Law Judge Jankhana Desai, Office of Administrative Hearings, State of California, heard this matter on December 1, 2011, in Los Angeles, California.

Julie To, Real Estate Counsel, represented Robin Trujillo, a Deputy Real Estate Commissioner (Complainant) of the Department of Real Estate (Department) of the State of California.

Charles R. Crites, II (Respondent) represented himself.

At hearing, Complainant amended the Accusation, without objection, as follows: on page 2, line 7, "273(A)" was stricken and replaced with "273a(b)."

Oral and documentary evidence was received and argument heard. The record was closed and the matter submitted for decision on December 1, 2011.

FACTUAL FINDINGS

1. On January 28, 2011, Complainant filed the Accusation while acting in her official capacity.

2. On June 16, 1992, the Department issued broker's license number B/01027522 to Respondent. Said license is in full force and effect and is due to expire on July 13, 2012.

Respondent's Conviction

3a. On December 14, 2009, in the Superior Court of California, County of Riverside, Case No. RIF147095, Respondent was convicted, by way of jury verdict, of violating California Penal Code section 273a, subdivision (b) (willful harm/endorsement of a child), and California Penal Code section 243, subdivision (e) subsection (1) (battery on a spouse), both misdemeanors.

3b. Imposition of sentence was suspended and Respondent was placed on summary probation for a period of 48 months under terms and conditions that required Respondent to: (1) serve 40 days in county jail (with credit given for one day time served), (2) perform 40 hours of community service, (3) pay fines and restitution, (4) complete a 52-week domestic violence class, (5) complete child abuse classes, (6) have no contact with his step-daughter (STEP-DAUGHTER),¹ and (7) have peaceful contact with his wife, Monasue. Respondent served the county jail sentence as 18 days of house arrest with electronic ankle monitoring.

3c. The incident that led to the convictions took place on November 12, 2008. On that date, Respondent was involved in an argument with 17-year-old STEP-DAUGHTER over some text messages on her mobile phone. Monasue was also involved. As a result of the incident, STEP-DAUGHTER suffered a black eye/bruise on her cheek. The day after the incident, her swim coach's wife saw the bruise and called the police. The evidence at hearing did not establish the exact facts and circumstances surrounding the conviction. At hearing, Respondent acknowledged that STEP-DAUGHTER suffered a black eye/bruise on her cheek, but denied intentionally harming his STEP-DAUGHTER and Monasue. In his support, Respondent offered a statement by Monasue that was filed in the Superior Court of California, County of Riverside, on January 15, 2010. However, Respondent may not impeach his convictions in this proceeding. His convictions stand "as conclusive evidence of [his] guilt of the offense charged. To hold otherwise would impose upon administrative boards extensive, time-consuming hearings aimed at relitigating criminal charges which had culminated in final judgments of conviction." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

3d. Respondent remains on probation for his convictions; his probation is scheduled to terminate in January 2014. He served his house arrest, completed the 52-week domestic violence program and the child abuse classes, and paid his fines and fees.

4. Respondent was married to Monasue for approximately 10 years at the time of the incident. Together, the couple has three children in common. Monasue also has two children from her previous marriage, STEP-DAUGHTER and another daughter. Respondent and his wife separated towards the end of 2009, and were divorced in March 2011. They share joint custody of their children in common. Respondent has not had any contact with STEP-DAUGHTER.

5. Respondent, 45, has owned Priority Funding since 1990 and works as a broker there.

6. Respondent has not suffered any previous discipline on his license.

7. After completing the 52-week domestic violence program through his church, Saddleback Church, Respondent has volunteered to lead discussions with the program. Respondent is also involved with a men's weekly discussion group through his church.

¹ The name of the step-daughter has been omitted to protect her privacy.

8. Respondent provided a letter of reference from Machel Bailey (Bailey), who has known Respondent personally and professionally. Bailey wrote that Respondent conducts "himself and any business matter with honesty, integrity and excellence." Bailey considers Respondent "kind, compassionate, and considerate of others." Respondent also provided three letters from David Greene (Greene). Greene is on the Pastoral Care/Membership team of Saddleback Church. In his letters, Greene verified Respondent's completion of the two court-mandated programs and wrote of Respondent's positive progress as it relates to anger management and maintaining healthy relationships.

9. In October 2011, Respondent completed the Nationwide Mortgage Licensing System pre-license education. In 2011, he passed the national and state components of the SAFE Mortgage Loan Originator tests.

LEGAL CONCLUSIONS

1. Business and Professions Code sections 490 and 10177, subdivision (b), provide that a real estate license may be suspended or revoked if the licensee has been convicted of a crime substantially related to the duties, qualifications, and functions of a real estate licensee.

2. The Department has adopted a regulation to determine whether a crime or act is substantially related to the qualifications, functions and duties of a real estate licensee. California Code of Regulations, title 10, section 2910, states in part:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the [Business and Professions] Code, the crime or act shall 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 of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

Respondent's crimes constitute unlawful acts with the intent of doing substantial injury to another and therefore are substantially related to the qualifications, functions and duties of a real estate licensee based on Factual Finding 3. (Cal. Code Regs., tit. 10, § 2910, subd. (a) (8).)

3. Cause exists to suspend or revoke Respondent's real estate license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), in that Respondent was convicted of crimes that are substantially related to the qualifications, functions and duties of a real estate licensee, by reason of Factual Finding 3, and Legal Conclusions 1 and 2.

4. The Department has enacted a regulation for the purpose of evaluating whether an applicant with a criminal record has been rehabilitated; it is found at Title 10, California Code of Regulations, section 2912. Section 2912 states:

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

(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions, or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.

(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.

(g) Payments of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

(h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.

(i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(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 privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

Respondent has taken steps towards rehabilitation. He has completed the terms of his probation and is serving as a leader in the program at his church. Given that Respondent and Monasue are divorced and Respondent has had no contact with STEP-DAUGHTER, the chance of any reoccurrence is very low. It is also of merit that Respondent has been licensed by the Department for more than 20 years without suffering any prior discipline. However, the evidence suggests he has not been sufficiently rehabilitated such that allowing him to retain an unrestricted real estate broker's license would not pose a significant risk to the public's health, safety and welfare. Specifically, Respondent remains on probation (Cal.

Code Regs., tit 10, § 2912, subd. (e)); his conviction is not expunged; (Cal. Code Regs., tit 10, § 2912, subd. (c)); and he did not evidence a positive change in attitude from the time he committed his crimes (Cal. Code Regs., tit 10, § 2912, subd. (m)). Respondent did not accept responsibility for his actions. Under the circumstances, the accompanying order is necessary to protect the public.

ORDER

All licenses and licensing rights of Respondent Charles R. Crites II under the Real Estate Law are revoked; provided, however, a restricted real estate broker's 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, 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.

5. 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.

DATED: January 3, 2012



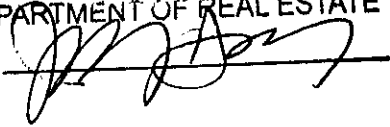
JANKHANA DESAI
Administrative Law Judge
Office of Administrative Hearings

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DEPARTMENT OF REAL ESTATE
BY: 

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-37058 LA
12 CHARLES R. CRITES, II) A C C U S A T I O N
13 Respondent.)
14 _____)

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16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against CHARLES R. CRITES, II, a.k.a. Chuck Crites or Charles
19 Robert Crites, II or Charles Robert Critetz ("Respondent")
20 alleges as follows:

21 1.

22 The Complainant, Robin Trujillo, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 in her official capacity.

25 2.

26 Respondent is presently licensed and/or has license
27 rights under the Real Estate Law, Part 1 of Division 4 of the

1 California Business and Professions Code ("Code"), as a real
2 estate broker.

3 3.

4 On or about December 14, 2009, in the Superior Court
5 of the State of California, County of Riverside, in Case No.
6 RIF147095, Respondent was convicted of violating Penal Code
7 Sections 273(A) (willful harm/endangerment of child) and
8 243(E)(1) (battery on spouse/cohabitant), misdemeanors.
9 Respondent was sentenced to four years probation; 40 days in
10 jail; ordered to perform 40 hours of community service; ordered
11 to pay fines and restitution; ordered to complete domestic
12 violence and child abuse classes; and ordered to have no direct
13 or indirect contact with the victims.

14 4.

15 These convictions, by their facts and circumstances,
16 bears a substantial relationship under Section 2910, Title 10,
17 Chapter 6, California Code of Regulations to the qualifications,
18 functions or duties of a real estate licensee.

19 5.

20 The crimes of which Respondent was convicted
21 constitutes cause under Sections 490 and 10177(b) of the Code
22 for the suspension or revocation of the license and license
23 rights of Respondent under the Real Estate Law.

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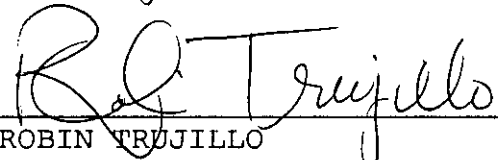
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent, CHARLES R. CRITES, II, under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code) and
7 for such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at Los Angeles, California
10 this 28 day of January, 2011.

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12 
13 ROBIN TRUJILLO
14 Deputy Real Estate Commissioner
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26 cc: CHARLES R. CRITES, II
27 Robin Trujillo
Sacto.