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**MAR 28 2024**

**DEPT. OF REAL ESTATE**

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
JASON WADE HUGHES,  
Respondent.

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DRE No. H-05759 SD  
OAH No. 2023060788

DECISION AFTER REJECTION

The matter came on for hearing before Mary Agnes Matyszewski, Administrative Law Judge of the Office of Administrative Hearings in San Diego, California, on August 23, 2023.

Diane Lee, Counsel for the Department of Real Estate (“Department”), represented the Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California (“Complainant”).

Respondent Jason Wade Hughes (“Respondent”) was present and was represented by Attorneys William O’Connor and Chip Harrison, of Cooley, LLP.

Oral and documentary evidence was received, the record remained open to allow the parties to submit written closing and reply briefs, which were considered. The record was closed, and the matter was submitted on November 3, 2023.



1 Cause having been found to discipline Mr. Hughes's broker's license, the  
2 question is what discipline is appropriate. California Code of Regulations, title 10, section  
3 2912, sets forth the Department's Criteria for Rehabilitation as required by Business and  
4 Professions Code section 482. Those criteria are considered below:

5 Regulation 2912

6 The following criteria have been developed and will be considered by the Bureau  
7 pursuant to Section 482 of the Business and Professions Code for the purpose of evaluating  
8 whether or not a licensee against whom an administrative disciplinary proceeding for revocation  
9 or suspension of the license has been initiated on account of a crime committed by the licensee is  
10 rehabilitated:

11 (a) The time that has elapsed since commission of the act(s) or offense(s):

12 (1) The passage of less than two years after the most recent criminal conviction or  
13 act of the licensee that is a cause of action in the Bureau's Accusation against the licensee  
14 is inadequate to demonstrate rehabilitation.

15 (2) Notwithstanding subdivision (a)(1), above, the two year period may be  
16 increased based upon consideration of the following:

17 (A) The nature and severity of the crime(s) and/or act(s) committed by the  
18 licensee.

19 (B) The licensee's history of criminal convictions and/or license discipline that  
20 are "substantially related" to the qualifications, functions, or duties of a real estate  
21 licensee.

22 (b) Restitution to any person who has suffered monetary losses through  
23 "substantially related" acts or omissions of the licensee, or escheat to the State of these  
24 monies or other properties if the victim(s) cannot be located.

25 (c) Expungement of the conviction(s) which culminated in the administrative  
26 proceeding to take disciplinary action.

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

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

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

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

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

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

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

16 (k) Completion of, or sustained enrollment in, formal educational or vocational  
17 training courses for economic self-improvement.

18 (l) Significant and conscientious involvement in community, church or privately-  
19 sponsored programs designed to provide social benefits or to ameliorate social problems.

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

22 (1) Testimony and/or other evidence of rehabilitation submitted by the licensee.

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

25 (3) Evidence from probation or parole officers and/or law enforcement officials  
26 competent to testify as to licensee's social adjustments.

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

3 (5) Absence of subsequent felony convictions, or misdemeanor convictions, or  
4 other conduct that provides grounds to discipline a real estate licensee, which reflect an  
5 inability to conform to societal rules when considered in light of the conduct in question.

6 *-Pursuant to Regulation 2912(a), it has been less than two years since*  
7 *Respondent's misdemeanor conviction on March 23, 2023.*

8 *-Pursuant to Regulation 2912(b), Respondent was ordered to pay restitution of*  
9 *\$9,433,872.30 to the City of San Diego, which Respondent has paid.*

10 *-Pursuant to Regulation 2912(c), Respondent's conviction has not been expunged.*

11 *-Pursuant to Regulation 2912(e), Respondent summary probation is scheduled to*  
12 *end on March 23, 2024.*

13 *-Pursuant to Regulation 2912(g), there was nothing in the record to indicate that*  
14 *Respondent owes any outstanding fines or fees in connection with the criminal*  
15 *conviction.*

16 *-Pursuant to Regulation 2912(h), Respondent testified that he stepped down as the*  
17 *CEO of his company and appointed a new designated officer. However, Respondent's*  
18 *testimony about his corporate structure differed from the documents shown to him at*  
19 *hearing. See Factual Finding 26, page 29.*

20 *-Pursuant to Regulation 2912(i), Respondent offered letters in support of*  
21 *Respondent from family members and individuals associated with Respondent's*  
22 *company, Hughes Marino, showing that Respondent maintains the same business*  
23 *relationships. Respondent's Exhibits CC-CF.*

24 *-Pursuant to Regulation 2912(j), Respondent testified that he has a stable family*  
25 *life.*

26 *-Pursuant to Regulation 2912(k), there is no evidence of recent completion or*  
27 *enrollment of formal education or vocational training courses.*

1                    -*Pursuant to Regulation 2912(l), Respondent testified that he saved the San Diego*  
2                    *Children’s Museum, has raised millions in funds, and been involved with countless*  
3                    *organizations over the years. (TOP 100-101). However, the record lacks any specific*  
4                    *information regarding any recent, significant, and conscientious involvement in*  
5                    *community programs.*

6                    -*Pursuant to Regulation 2912(m), Respondent’s attitude has not changed from*  
7                    *that which existed at the time of the conviction. Respondent’s present-day attitude is a failure to*  
8                    *accept responsibility. Throughout his testimony, Respondent denied any wrongdoing and,*  
9                    *instead, Respondent characterized himself as a victim by stating, “I feel like I got bullied on this*  
10                    *whole thing” and “I was scapegoated and this was wrong.” (TOP 103:1-11). Respondent*  
11                    *continues his denial of the crime. Respondent may not impeach his conviction. (Arneson v. Fox*  
12                    *(1980) 28 Cal.3d 440,452.)*

13 LEGAL CONCLUSION No. 21, pages 39 and 40, shall now read as follows:

14                    Mr. Hughes stands convicted of violating Government Code section 1090, a  
15                    substantially related conviction. His testimony that he did not know he could not seek  
16                    compensation because he did not think he was a government official is given little weight  
17                    because ignorance of the law is no excuse. (*People v. Snyder* (1982) 32 Cal.3d 590, 592-593.)  
18                    Courts have drawn distinctions between mistakes of fact and mistakes of law; while a mistake  
19                    of fact usually is a defense, a mistake of law usually is not. (*People v. Meneses* (2008) 165  
20                    Cal.App.4<sup>th</sup> 1648, 1661-1665.)

21                    When acting on behalf of a government entity, even greater care must be taken to  
22                    ensure there is no conflict of interest and no law is violated. Beyond sending letters and emails  
23                    that he would seek compensation, Mr. Hughes took no steps to ensure he could seek that  
24                    compensation. In mitigation, Mr. Hughes did notify City officials of his intention, and credibly  
25                    testified about his numerous conversations with City officials regarding his intent. He did not  
26                    hide his intention nor act before advising City officials about it. His claim that City officials told  
27                    him he could seek compensation was unrefuted. Mr. Hughes was ordered to return all of the

1 compensation he earned to the City. Prior to his conviction, Mr. Hughes enjoyed a long and  
2 distinguished career, was clearly respected by several mayoral administrations, and had no  
3 history of discipline. Mr. Hughes testified that his conviction was “an injustice” (TOP 102:3-  
4 17), a “travesty” and a “painful process.” (TOP 103:1-14).

5 Fully acknowledging the wrongfulness of past action is a necessary step towards  
6 rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal. 3d 933, 939.) Respondent  
7 has not acknowledged his responsibility for the conviction. On March 23, 2023, Respondent  
8 pled guilty to violating Government Code section 1090 of which he was convicted.  
9 Respondent’s guilty plea serves as an admission of each element of the crime charged. (*Arnstein*  
10 *v. California State Board of Pharmacy* (1968) 265 Cal.App.2d 179.) Respondent cannot  
11 impeach or relitigate his criminal conviction. (*Arneson v. Fox* (1980) 28 Cal. 3d 440.) Yet,  
12 Respondent continues to attempt to impeach the conviction by claiming that he “did nothing  
13 wrong” (TOP 102:9-10) and that he was “scapegoated.” (TOP 103:10-11). Respondent’s  
14 unwillingness or refusal to acknowledge the full extent of his own misconduct demonstrates that  
15 he has yet to have a sufficient change in attitude.

16 Pursuant to Regulation 2912, Respondent’s rehabilitation is insufficient.  
17 Respondent’s lack of acceptance or responsibility for his conviction and claim that his  
18 conviction is wholly unrelated to his license, does not assure the Department that the public  
19 will be protected in granting continued licensure to Respondent as a real estate broker. Real  
20 estate brokers act as fiduciaries to their clients and occupy a unique position of trust and  
21 responsibility toward the public. Real estate brokers, even those with a restricted license,  
22 function with minimal to no supervision. In order that the public may be adequately protected,  
23 revocation of Respondent’s real estate broker license is necessary and appropriate. The  
24 Department’s mission of public protection demands a revocation of Respondent’s real estate  
25 broker license and prevents the Department from granting licensure to Respondent in any  
26 capacity.

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ORDER

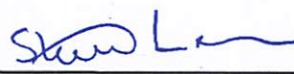
WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent JASON WADE HUGHES under the Real Estate Law are revoked. Respondent shall pay the Department the sum of \$4,000.00 before any licensing rights or privileges may be reinstated.

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

IT IS SO ORDERED 3/28/24.

CHIKA SUNQUIST  
REAL ESTATE COMMISSIONER

 for M. McCarther  
By: Marcus L. McCarther  
Chief Deputy Real Estate Commissioner



## Government Code

**§11521. Reconsideration** - (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

**§11522. Reinstatement of License or Reduction of Penalty** - A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty. (Added by Stats. 1945, Ch. 867; amended by Stats. 1985, Ch. 587.

## CRITERIA FOR REHABILITATION (*REVOCATION*)

RE 574 (Rev. 7/18)

LEGAL SECTION

Your real estate license has been revoked or suspended by the Real Estate Commissioner based wholly or in part upon (1) a criminal conviction, or (2) an act involving dishonesty, fraud or deceit done with intent to substantially benefit yourself or another or with the intent or threat of substantially injuring another or property, or (3) an act which if done by a real estate licensee would be grounds for revocation of that license, or (4) upon the grounds that you knowingly made a false statement of fact required to be revealed in the application for such license. The reason(s) for the revocation or suspension is set forth in the attached Decision.

Set forth below is the Criteria for Rehabilitation. These criteria have been developed by the Department of Real Estate as guidelines to assist you to establish a rehabilitation program and in the preparation of your case should you petition in the future for reinstatement of your license or for a reduction of your penalty.

Not all of the factors listed in the Criteria will be applicable in the case of every revoked or suspended license nor will each applicable factor necessarily be given equal weight in evaluating a person's rehabilitation. Each person must decide which of these factors are applicable to his or her case and should then take appropriate steps toward rehabilitation to the end of satisfying the Real Estate Commissioner that it would not be against the public interest to grant reinstatement of the license or a reduction of the penalty

### ***2912. Criteria for Rehabilitation (Revocation or Suspension).***

The following criteria have been developed and will be considered by the Department pursuant to Section 482 of the Business and Professions Code for the purpose of evaluating whether or not a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee is rehabilitated:

(a) The time that has elapsed since commission of the act(s) or offense(s):

(1) The passage of less than two years after the most recent criminal conviction or act of the licensee that is a cause of action in the Department's Accusation against the licensee is inadequate to demonstrate rehabilitation.

(2) Notwithstanding subdivision (a)(1), above, the two year period may be increased based upon consideration of the following:

(A) The nature and severity of the crime(s) and/or act(s) committed by the licensee.

(B) The licensee's history of criminal convictions and/or license discipline that are "substantially related" to the qualifications, functions, or duties of a real estate licensee.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee, or escheat to the State of these monies or other properties if the victim(s) cannot be located.

(c) Expungement of the conviction(s) 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) Abstinance 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 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 and/or other evidence of rehabilitation submitted by the licensee.

(2) Evidence from family members, friends and/or other persons familiar with the licensee's previous conduct

and with subsequent attitudes and/or behavioral patterns.

(3) Evidence from probation or parole officers and/or law enforcement officials competent to testify as to licensee'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 convictions, misdemeanor convictions, or other conduct that provides grounds to discipline a real estate licensee, which reflect an inability to conform to societal rules when considered in light of the conduct in question.

Note: Authority cited: Sections 482 and 10080, Business and Professions Code. Reference: Sections 482 and 490, Business and Professions Code.

**DECLARATION OF MAILING**

**State of California  
Department of Real Estate**

***In the Matter of the Accusation of:***

JASON WADE HUGHES

H-05759 SD

***State of California, County of Los Angeles***

I am a citizen of the United States, over the age of eighteen years, and not a party to the within action. I am employed in the office of the Department of Real Estate of the State of California at 1651 Exposition, Blvd., Sacramento, CA 95815.

On March 29, 2024, I served the following documents:

- DECISION AFTER REJECTION
- RE 561H (LETTER TO RESPONDENT)
- RE 574 CRITERIA OF REHABILITATION (*REVOCATION*)
- GOVERNMENT CODE, SECTIONS 11521 & 11522

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

JASON WADE HUGHES  
1450 FRONT ST  
SAN DIEGO, CA 92101

*(Respondent)*

WILLIAM V. O'CONNOR  
COOLEY LLP  
10265 SCIENCE CTR DR  
SAN DIEGO CA 92121

*(Respondent's Attorney)*

**(BY REGULAR MAIL ONLY)**

*(Respondent's Employing Broker)*  
**(BY REGULAR MAIL ONLY)**

*(By Mail)* I served the above document(s) on behalf of the Department of Real Estate by placing for collection and mailing, following ordinary business practices, true copies to the addressed as shown above, on this date and at the place shown, in envelope(s) in the ordinary course of business.

*(By Certified Mail)* I served the above document(s) on behalf of the Department of Real Estate by placing for collection and mailing, following ordinary business practices, true copies to the addressed as shown above, on this date and at the place shown, in envelope(s) in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 29, 2024, at Los Angeles, California.



\_\_\_\_\_  
ALEJANDRA CANCHE