

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for reinstatement is granted and that a real estate broker license
10 be issued to Respondent, if Respondent satisfies the following
11 conditions within six months from the date of this Order:

12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20
21 DATED: 5/3/13

22 CLARK WALLACE
23 Real Estate Commissioner

24 Clark Wallace
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FILED
NOV 30 1987

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
CLAUDIO VIGHI,)	No. H-2227 SAC
DWIGHT NEIL COTTEN,)	
)	N-29186
Respondents.)	
)	

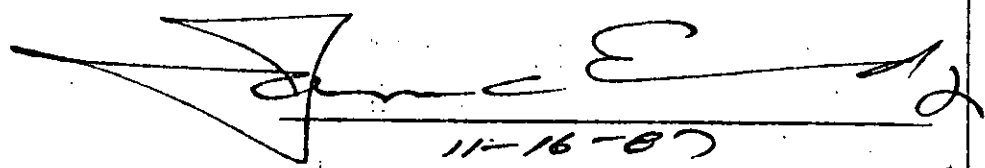
ORDER DENYING RECONSIDERATION

On September 28, 1987, a Decision was rendered in the above-entitled matter. The Decision is to become effective on November 23, 1987.

On October 21, 1987, respondent Dwight Neil Cotten petitioned for reconsideration of the Decision of September 28, 1987.

I have given due consideration to the petition of respondent. I find no good cause to reconsider the Decision of September 28, 1987, and reconsideration is hereby denied.

JAMES A. EDMONDS, JR.
Real Estate Commissioner


11-16-87

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FILED
OCT 21 1987

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of))	
CLAUDIO VIGHI,))	NO. H-2227 SAC
DWIGHT NEIL COTTEN,))	
Respondents.))	N 29186

ORDER STAYING EFFECTIVE DATE

On September 28, 1987, a Decision was rendered in the above-entitled matter to become effective October 22, 1987.

IT IS HEREBY ORDERED that the effective date of the Decision of September 28, 1987 with respect to respondent Dwight Neil Cotten only is stayed for a period of 30 days.

The Decision of September 28, 1987, shall become effective at 12 o'clock noon on November 23, 1987.

DATED: October 21, 1987.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

BY: *John R. Liberator*
JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:) No. H-2227 SAC
)
CLAUDIO VIGHI,) OAH NO. N-29186
DWIGHT NEIL COTTEN,)
)
)
Respondents.)
_____)

PROPOSED DECISION

On August 14, 1987, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Roland Adickes, Staff Counsel, represented complainant.

Claudio Vighi and Dwight Neil Cotten appeared in person but were not otherwise represented.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, issued the Accusation in his official capacity and not otherwise.

II

Respondents are presently licensed and/or have license rights under the Real Estate law (Part 1 of Division 4 of the Business and Professions Code). Both respondents are real estate brokers.

III

On or about June 21, 1985, respondent Vighi was in the employment of real estate broker Richard A. Bortolazzo, as a broker-associate. Mr. Vighi was under the direct supervision of Mr. Bortolazzo's office manager, respondent Dwight Cotten. Mr. Bortolazzo

was operating a real estate brokerage office known as Better Homes Realty located in Benicia, California.

IV

On or about June 21, 1985, respondent Vighi presented to Mr. and Mrs. Daniel Van Haren an offer from Mr. and Mrs. Joseph Bazile to purchase real property known as 205 Radcliffe in Vallejo, California. This offer recited that the Baziles had put up a good faith deposit of \$1,000 in the form of a personal check. The Van Harens made a counter offer on or about June 26, 1985, which was accepted by the Baziles on the same day. The counter offer made no changes with regard to the \$1,000 good faith deposit check which was to be held "uncashed until acceptance". The deposit was to increase by \$5,000 within ten days from the acceptance of the offer. Escrow was opened at Founders Title Company on June 26, 1985. Respondent Vighi did not deposit the \$1,000 personal check into escrow at this time. On June 28, 1985, respondent Vighi was told by Mr. Bazile that he did not have the money to cover the \$1,000 and Mr. Vighi agreed to hold on to the check and not deposit it in escrow. Respondent Vighi did not inform the sellers' agent that the money was not deposited in escrow. The additional \$5,000 deposit due on July 6, 1985, was not deposited in escrow. This was known by respondent Vighi and not communicated to the sellers' agent. On or about July 12, 1985, respondent Vighi learned that the Baziles could not come up with the purchase money because Mr. Bazile's boss could not make him the anticipated loan. It was only then that respondent Vighi insisted that Mr. Bazile come up with the \$1,000 deposit money. On July 27, 1985, respondent Vighi received \$1,000 in cash from Mr. Bazile whose check was returned to him. This money was not deposited in escrow until August 12, 1985. Respondent Vighi did not inform the sellers' agent that the buyer was backing out of the contract until July 19, 1985.

V

Respondent Cotten reviewed the purchase agreement between the Van Harens and the Baziles on or about June 28, 1985. He instructed respondent Vighi to take care of several items with respect to the agreement including having the liquidated damages clause initialed by the seller and having the Property Disclosure Statement signed. On July 2, 1985, he instructed respondent Vighi to deposit in escrow the \$1,000 deposit check. On July 4, he went on vacation and when he returned on July 8, he observed that the deposit check had still not been deposited in escrow. He did not review and observe that an additional \$5,000 had been due on July 6, 1985. Respondent Cotten's argument that he believed that there was no binding contract because the liquidated damages clause was not initialed by the seller was not credible. Respondent Cotten was negligent in not seeing to it that respondent Vighi deposited the \$1,000 personal check, received from the buyer, in escrow when the original offer was accepted. He was further negligent in not observing and questioning why the additional \$5,000 was not deposited in escrow on July 6, 1985.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent Vighi's license was established for violation of Business and Professions Code section 10176(a) by reason of Finding IV.

II

Cause for discipline of respondent Cotten's license was established for violation of Business and Professions Code section 10177(g) by reason of Finding V.

ORDER

I

All real estate licenses and licensing rights issued to respondent Claudio Vighi by the Department of Real Estate are revoked; provided, however, a restricted 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 pay to the Department of Real Estate the appropriate fee for said license not before 60 days nor after 120 days from the effective date of this decision. 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 the restricted license until two years have elapsed from the date of issuance of the restricted license to respondent. 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 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code as enumerated below in paragraph III.

II

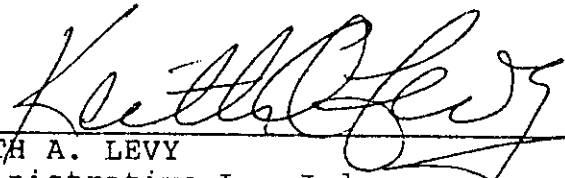
All real estate licenses and licensing rights issued to respondent Dwight Neil Cotten by the Department of Real Estate are revoked; provided, however, a restricted real estate broker's license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within 120 days from the effective date of this decision. 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 the restricted license until one year has elapsed from the date of issuance of the restricted license to respondent. 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 that Code as enumerated below in paragraph III.

III

- A. Respondents shall, within six (6) months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that they have, since the most recent issuance of the 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 respondents fail to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondents in question presents such evidence. The Commissioner shall afford respondents the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
- not adopted*
- B. Respondents shall submit with any application for licensure under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker which shall certify:
- (1) That the employing real estate broker has read the Decision of the Commissioner which granted the right to a restricted license;
 - (2) That the employing real estate broker will exercise close supervision over the performance by the restricted licensees relating to activities for which a real estate license is required.
- C. The restricted licenses issued to respondents may be suspended prior to hearing by order of the Commissioner in the event that respondents are convicted, including a conviction of nolo contendere, of any crime which bears a substantial relationship to respondents' fitness to be real estate licensees or as otherwise provided by law.
- D. Respondents shall comply with all the laws to which they are subject, including all the provisions of the California Real Estate Law, Subdivided Lands Law, and all regulations of the Real Estate Commissioner.

E. The restricted licenses may be suspended or
revoked for violation by respondents of any of
the conditions attached to their restricted
licenses.

Dated: September 3, 1987



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

FILED
MAY 20 1987

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

In the Matter of the Accusation of
CLAUDIO VIGHI,
DWIGHT NEIL COTTEN,

By Kathleen Contreras

Case No. H-2227 SAC
N 29186

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

TO THE ABOVE NAMED RESPONDENT:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 501 J Street, Suite 220, Second Floor Hearing Rooms, Sacramento, CA 95814

on the 14th day of August, 1987, at the hour of 9:00 AM, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

DATED: May 20, 1987

DEPARTMENT OF REAL ESTATE
By Roland Adickes
ROLAND ADICKES Counsel

1 ROLAND ADICKES, Counsel
2 Department of Real Estate
3 P. O. Box 160009
4 Sacramento, CA 95816

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7 (916) 739-3607

FILED
FEB 24 1987
DEPARTMENT OF REAL ESTATE

Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CLAUDIO VIGHI,) NO. H- 2227 SAC
13 DWIGHT NEIL COTTEN,)
14 Respondents.) ACCUSATION

15
16 The Complainant, Charles W. Koenig, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against CLAUDIO VIGHI, DWIGHT NEIL COTTEN, AREABE, INC.,
19 (hereinafter referred to as "Respondents") is informed and alleges
20 as follows:

21 I

22 The Complainant, Charles W. Koenig, a Deputy Real Estate
23 Commissioner of the State of California, is acting in his official
24 capacity in making this Accusation against Respondents.

25 II

26 Respondents are presently licensed and/or have license
27 rights under the Real Estate Law (Part 1 of Division 4 of the

1 Business and Professions Code, hereinafter "the Code") as
2 follows:

3 (1) Cotten as a real estate broker.

4 (2) Vighi as a real estate broker.

5 III

6 On or about June 21, 1985, respondent Vighi was in the
7 employment of real estate broker Bortolazzo, as a
8 broker-associate. Vighi was under the direct supervision of
9 Bortolazzo's office manager, respondent Cotten.

10 Bortolazzo was operating a real estate brokerage office
11 at 900 First Street in Benicia, California, predominantly engaged
12 in negotiating real estate sales.

13 IV

14 On or about June 21, 1985, respondent Vighi presented to
15 Mr. and Mrs. Van Haren an offer from Mr. and Mrs. Bazile to
16 purchase real property known as 205 Radcliffe in Vallejo, Solano
17 County, California.

18 This offer recited that the Baziles had put up a good
19 faith deposit of \$1,000.00 in the form of a personal check. The
20 Van Harens made a counter offer on or about June 26, 1985, which
21 was accepted by the Baziles on the same day. The counter offer
22 made no changes with regard to the \$1,000.00 good faith deposit
23 check which was to be held "uncashed until acceptance".

24 At or about the time the accepted counter offer was
25 delivered to the Van Harens, respondents Vighi and Cotten knew
26 that the Baziles did not have the money to permit deposit of this
27 check into escrow and Vighi had agreed with the Baziles not to

1 deposit the \$1,000.00 check into escrow until told by the
2 Baziles.

3 Respondents did not inform the Van Harens of these facts
4 until on or about August 5, 1985, when questioned about the matter
5 by the Van Harens.

6 V

7 The acts and/or omissions of Respondents described above
8 are grounds for the suspension or revocation of Respondents'
9 licenses under Section 10176(a) and/or 10177(g) of the Business
10 and Professions Code of the State of California.

11 WHEREFORE, complainant prays that a hearing be conducted
12 on the allegations of this Accusation and that upon proof thereof,
13 a decision be rendered imposing disciplinary action against all
14 licenses and license rights of Respondents, under the Real Estate
15 Law (Part 1 of Division 4 of the Business and Professions Code),
16 and for such other and further relief as may be proper under the
17 provisions of law.

18
19
20 Charles W. Koenig
21 CHARLES W. KOENIG
22 Deputy Real Estate Commissioner

23 Dated at Sacramento, California,
24 this 25th day of February, 1987.

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