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FILED

MAY 20 2008

DEPARTMENT OF REAL ESTATE

By H. Max

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
FRANK JOSEPH FERRIS,)	No. H-3983 SAC
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On July 2, 2004, in Case No. H-3983 SAC, a Decision was rendered revoking the real estate broker license of Respondent effective August 2, 2004, but granting Respondent the right to the issuance of a restricted broker license. A restricted broker license was issued to Respondent on August 2, 2004, and Respondent has operated as a restricted licensee since that time.

On January 23, 2007, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has
3 failed to demonstrate to my satisfaction that Respondent has
4 undergone sufficient rehabilitation to warrant the reinstatement
5 of Respondent's unrestricted real estate broker license.

6 The burden of proving rehabilitation rests with the
7 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
8 petitioner is required to show greater proof of honesty and
9 integrity than an applicant for first time licensure. The proof
10 must be sufficient to overcome the prior adverse judgment on the
11 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
12 395).

13 The Department has developed criteria in Section 2911
14 of Title 10, California Code of Regulations (Regulations) to
15 assist in evaluating the rehabilitation of an applicant for
16 reinstatement of a license. Among the criteria relevant in this
17 proceeding are:

18 Section 2911(a). The passage of not less than two
19 years since the most recent criminal conviction or act of the
20 applicant that is a basis to deny the departmental action
21 sought. (A longer period will be required if there is a history
22 of acts or conduct substantially related to the qualifications,
23 functions or duties of a licensee of the department.)

24 On January 24, 2007, in the Superior Court of the
25 State of California, County of Sacramento, Case No. 07T01057,
26 Respondent was convicted upon Respondent's nolo contendere plea
27 of the crime of Driving Under The Influence in violation of

1 Vehicle Code Section 23152(a), a misdemeanor and a crime that is
2 substantially related to the qualifications, functions and
3 duties of a real estate licensee.

4 Section 2911(n). Change in attitude from that which
5 existed at the time of the conduct in question as evidenced by
6 any or all of the following: (1) Testimony of applicant; (2)
7 Evidence from family members, friends or other persons familiar
8 with applicant's previous conduct and with his subsequent
9 attitudes and behavioral patterns. (3) Evidence from probation
10 or parole officers or law enforcement officials competent to
11 testify as to applicant's social adjustments. (4) Evidence from
12 psychiatrists or other persons competent to testify with regard
13 to neuropsychiatric or emotional disturbances. (5) Absence of
14 subsequent felony or misdemeanor convictions that are reflective
15 of an inability to conform to societal rules when considered in
16 light of the conduct in question.

17 On November 2, 2007, the Deputy Real Estate
18 Commissioner assigned to review Respondent's petition wrote
19 Respondent requesting submission of two letters of reference and
20 a completed RE 506A "Petition Application Supplement" to bring
21 current the information submitted in Respondent's Petition. On
22 January 24, 2008, the Deputy Real Estate Commissioner assigned
23 to review Respondent's petition wrote Respondent requesting
24 submission by February 18, 2008 of two letters of reference and
25 a completed RE 506A "Petition Application Supplement" to bring
26 current the information submitted in Respondent's Petition.
27 Respondent did not respond to either of these two requests. In

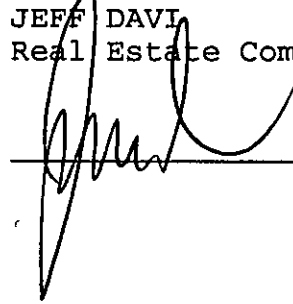
1 fact, the information submitted with Respondent's petition was
2 not current. On January 24, 2007, in the Superior
3 Court of the State of California, County of Sacramento, Case No.
4 07T01057, Respondent was convicted upon Respondent's nolo
5 contendere plea of the crime of Driving Under The Influence in
6 violation of Vehicle Code Section 23152(a), a misdemeanor.

7 Consequently, I am not satisfied that Respondent is
8 sufficiently rehabilitated to receive an unrestricted real
9 estate broker license. Additional time and evidence of
10 correction as a restricted real estate broker is necessary to
11 establish that Respondent is rehabilitated.

12 NOW, THEREFORE, IT IS ORDERED that Respondent's
13 petition for reinstatement of Respondent's real estate broker
14 license is denied.

15 This Order shall become effective at 12 o'clock
16 noon on JUN 10 2008, 2008.

17 DATED: 5-14, 2008

18 JEFF DAVIS
19 Real Estate Commissioner
20 
21 _____
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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789

FILED

JUL 12 2004

DEPARTMENT OF REAL ESTATE

By Laurie L. J...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-3983 SAC
12) OAH No. N-2004050050
13 FRANK JOSEPH FERRIS,)
14 Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between Respondent FRANK
16 JOSEPH FERRIS and the Complainant, acting by and through James L.
17 Beaver, Counsel for the Department of Real Estate (herein "the
18 Department"), as follows for the purpose of settling and
19 disposing of the Accusation filed on April 19, 2004 in this
20 matter (herein "the Accusation"):

21
22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondents
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be

27 DRE No. H-3983 SAC

FRANK JOSEPH FERRIS

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department in this proceeding.

6 3. On April 21, 2004, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that Respondent
11 understands that by withdrawing said Notice of Defense Respondent
12 will thereby waive Respondent's right to require the Real Estate
13 Commissioner (herein "the Commissioner") to prove the allegations
14 in the Accusation at a contested hearing held in accordance with
15 the provisions of the APA and that Respondent will waive other
16 rights afforded to Respondent in connection with the hearing such
17 as the right to present evidence in defense of the allegations in
18 the Accusation and the right to cross-examine witnesses.
19

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations in the
22 Accusation are true and correct and the Real Estate Commissioner
23 shall not be required to provide further evidence of such
24 allegations.

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27 DRE No. H-3983 SAC

FRANK JOSEPH FERRIS

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his or her decision in this matter, thereby imposing the
4 penalty and sanctions on Respondent's real estate license and
5 license rights as set forth in the "Order" set forth below. In
6 the event that the Commissioner in his or her discretion does
7 not adopt the Stipulation and Agreement in Settlement, it shall
8 be void and of no effect, and Respondent shall retain the right
9 to a hearing and proceeding on the Accusation under all the
10 provisions of the APA and shall not be bound by any admission
11 or waiver made herein.

12 6. The Order or any subsequent Order of the Real
13 Estate Commissioner made pursuant to this Stipulation and
14 Agreement in Settlement shall not constitute an estoppel,
15 merger or bar to any further administrative or civil
16 proceedings by the Department of Real Estate with respect to
17 any matters which were not specifically alleged to be causes
18 for accusation in this proceeding.

19
20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions and
22 waivers and solely for the purpose of settlement of the pending
23 Accusation without hearing, it is stipulated and agreed that the
24 following Determination of Issues shall be made:

25 ///

26 ///

27 DRE No. H-3983 SAC

FRANK JOSEPH FERRIS

I

1
2 The acts and omissions of Respondent FRANK JOSEPH
3 FARRIS as described in the Accusation are grounds for the
4 suspension or revocation of the licenses and license rights of
5 Respondent under the provisions of the Section 10177(f) of the
6 California Business and Professions Code (herein "the Code").

7 ORDER

8 I

9 All licenses and licensing rights of Respondent FRANK
10 JOSEPH FERRIS under the Real Estate Law are revoked; provided,
11 however, a restricted real estate broker license shall be
12 issued to said Respondent pursuant to Section 10156.5 of the
13 Business and Professions Code if, within 90 days from the
14 effective date of the Decision entered pursuant to this Order,
15 the Respondent, prior to and as a condition of the issuance of
16 said restricted license, makes application for the restricted
17 license and pays to the Department of Real Estate the
18 appropriate fee therefor.

19
20 The restricted license issued to such Respondent
21 shall be subject to all of the provisions of Section 10156.7 of
22 the Business and Professions Code and to the following
23 limitations, conditions and restrictions imposed under
24 authority of Section 10156.6 of that Code:

25 1. The restricted license issued to such Respondent may
26 be suspended prior to hearing by Order of the Real Estate

27 DRE No. H-3983 SAC

FRANK JOSEPH FERRIS

1 Commissioner in the event of the Respondent's conviction or
2 plea of nolo contendere to a crime which is substantially
3 related to Respondent's fitness or capacity as a real estate
4 licensee.

5 2. The restricted license issued to such Respondent
6 may be suspended prior to hearing by Order of the Real Estate
7 Commissioner on evidence satisfactory to the Commissioner that
8 the Respondent has violated provisions of the California Real
9 Estate Law, the Subdivided Lands Law, Regulations of the Real
10 Estate Commissioner or conditions attaching to the restricted
11 license.

12 3. Respondent shall not be eligible to apply for the
13 issuance of an unrestricted real estate license or for the
14 removal of any of the conditions, limitations or restrictions
15 of a restricted license until two (2) years have elapsed from
16 the effective date of this Decision.

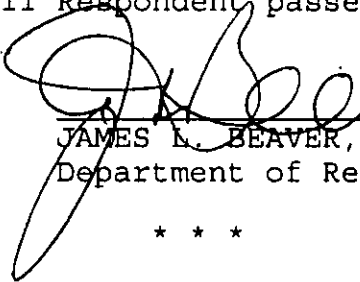
17 4. Respondent shall, within nine months from the
18 effective date of the Decision, present evidence satisfactory
19 to the Commissioner that Respondent has, since the most recent
20 issuance of an original or renewal real estate license, taken
21 and successfully completed the continuing education
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
23 for renewal of a real estate license. If Respondent fails to
24 satisfy this condition, the Commissioner may order the
25 suspension of the restricted license until the Respondent
26

1 presents such evidence. The Commissioner shall afford
2 Respondent the opportunity for a hearing pursuant to the
3 Administrative Procedure Act to present such evidence.

4 5. Respondent shall, within six (6) months from the
5 issuance of the restricted license, take and pass the
6 Professional Responsibility Examination administered by the
7 Department, including the payment of the appropriate
8 examination fee. If Respondent fails to satisfy this
9 condition, the Commissioner may order the suspension of the
10 restricted license until Respondent passes the examination.

11
12 06-24-04

DATED



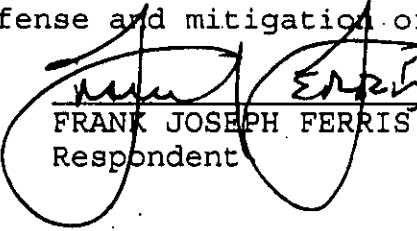
JAMES L. BEAVER, Counsel
Department of Real Estate

14 * * *

15 I have read the Stipulation and Agreement and its terms
16 are understood by me and are agreeable and acceptable to me. I
17 understand that I am waiving rights given to me by the California
18 Administrative Procedure Act (including but not limited to
19 Sections 11506, 11508, 11509, and 11513 of the Government Code),
20 and I willingly, intelligently, and voluntarily waive those
21 rights, including the right of requiring the Commissioner to
22 prove the allegations in the Accusation at a hearing at which I
23 would have the right to cross-examine witnesses against me and to
24 present evidence in defense and mitigation of the charges.

25 6-24-04

DATED



FRANK JOSEPH FERRIS
Respondent

27 DRE No. H-3983 SAC

FRANK JOSEPH FERRIS

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* * *

The foregoing Stipulation and Agreement is hereby
adopted by me as my Decision in this matter and shall become
effective at 12 o'clock noon on AUGUST 2, 2004.

IT IS SO ORDERED July 2, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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

FILED

MAY 10 2004

DEPARTMENT OF REAL ESTATE

By Laurie E. Fin

Case No. H-3983 SAC

OAH No. N-2004050050

In the Matter of the Accusation of

FRANK JOSEPH FERRIS,

Respondent

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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **THURSDAY, JUNE 24, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel

Dated: MAY 10, 2004

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
APR 19 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 FRANK JOSEPH FERRIS,) No. H-3983 SAC
13 Respondent.) ACCUSATION

14
15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against FRANK JOSEPH FERRIS (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code") as a real
23 estate broker.

24 II

25 The Complainant, Charles W. Koenig, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity.

1 III

2 Effective on or about October 31, 2003, after giving
3 Respondent fair notice of the charges, an opportunity for a
4 hearing, and other due process protections comparable to the
5 Administrative Procedure Act, Respondent's license as an
6 attorney in the State of California was suspended for nine
7 months by the Supreme Court of the State of California, said
8 suspension was stayed, and said license was placed on
9 probationary status for a period of two years, upon an express
10 finding of violation of Rule 4-100(A) and Rule 4-100(B)(3),
11 California State Bar Rules of Professional Conduct, for acts
12 which, if done by a California real estate licensee, would be
13 grounds for the suspension or revocation of a California real
14 estate license pursuant to the provisions of Section 10176(e),
15 Section 10177(g), and/or Section 10145 in conjunction with
16 Section 10177(d) of the Code.

17 IV

18 The facts described in Paragraph III, above,
19 constitute cause under Section 10177(f) of the Code for
20 suspension or revocation of all licenses and license rights of
21 Respondent under the Real Estate Law.

22 ///

23 ///

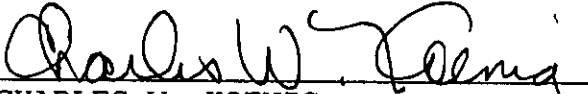
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 under the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

8
9 
10 CHARLES W. KOENIG
11 Deputy Real Estate Commissioner

12 Dated at Sacramento, California,
13 this 5th day of April, 2004.

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