

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
AUG 3 1 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Zi

\* \* \*

In the Matter of the Application of )  
) ) NO. H-1671 FRESNO  
JASON CHARLES FRETAG, ) )  
) ) OAH NO. N-2004050271  
Respondent. ) )  
\_\_\_\_\_ ) )

DECISION

The Proposed Decision dated August 3, 2004, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon  
on SEPTEMBER 20, 2004.

IT IS SO ORDERED August 17, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

JASON CHARLES FRETAG,

Respondent.

Case No.H-1671 FRESNO

OAH No. N2004050271

**PROPOSED DECISION**

Administrative Law Judge Muriel Evens, Office of Administrative Hearings, State of California, heard this matter in Sacramento, California, on June 29, 2004.

James L. Beaver, Real Estate Counsel II, represented complainant John Sweeney.

Respondent was present and represented himself.

The matter was submitted on June 29, 2004.

**FACTUAL FINDINGS**

1. Complainant John Sweeney, a Deputy Real Estate Commissioner, made the Statement of Issues in his official capacity.

2. On or about August 29, 2003, respondent Jason Charles Fretag filed an application with the Department for licensure as a real estate salesperson.

3. Question 25 on the salesperson application states,

Have you ever been convicted of any violation of law?  
Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense.

In response to question 25, respondent disclosed a misdemeanor conviction in Hemet on April 1, 1999, for "D.U.I.". In a follow-up to a letter from the Department dated October 9, 2003, respondent disclosed two additional "D.U.I." convictions, one in January 1995 in California, and one in June 2002 in Idaho. He also noted there were traffic fines and speeding tickets that he could not recall.

4. On or about June 17, 2002, respondent was convicted on his plea of guilty in the First Judicial District Court, State of Idaho, County of Kootenai, of Driving Under the Influence, a misdemeanor and a crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was sentenced to serve 180 days in jail, with 170 suspended, two years probation, suspension of driving privileges for 90 days and fines and fees.

5. On or about August 4, 1999, respondent was convicted on his plea of guilty in the Superior Court, County of Riverside to violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol in excess of .08 percent), a misdemeanor and a crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was sentenced to summary probation for five years, 48 hours in jail, participation in a drinking driver program, a restricted driver's license for 18 months, and various fees, fines and penalties.

6. Respondent was convicted in the First District Court, State of Idaho, County of Bonner, of each of the following violations of Idaho Codes, which he did not disclose:

August 21, 1995	Section 49-301	Driving with an invalid license
November 22, 1995	Section 18-705	Resisting or obstructing officers
May 31, 1996	Section 18-8004	Driving under the influence
March 14, 2000	Section 37-2734A(1)	Possession of paraphernalia

7. Respondent was born in December 1974, and is now 29 years old. He is married and is employed in a business developed by his late father. Respondent is interested in real estate and holds a real estate license in Idaho. Growing up, respondent would spend about half the year in Idaho and half in California. He now resides in California.

Respondent had a number of explanations for his convictions, including taking responsibility for marijuana he said belonged to another, and resisting arrest because he was under the influence of alcohol. He attributes his series of convictions, including several related to substance abuse, to youthful indiscretion. He showed no remorse.

When asked why he did not disclose any Idaho convictions on the application, respondent answered that he did not think it necessary, because this was California and because the Idaho real estate licensing agency had already reviewed his convictions. Respondent also testified that he thought the Department would only be interested in convictions for the last five to seven years. When asked why he thought that, he stated that he thought seven years was enough, and there was not enough room on the form to show all his convictions. And, he was in a hurry to get his license.

8. Respondent has had no convictions since 2002.

#### LEGAL CONCLUSIONS

1. Grounds exist for denial of respondent's application for licensure pursuant to Business and Professions Code sections 480, subdivision (c) (making a false statement), and 10177, subdivision (a) (attempting to procure a license by misrepresentation), by reason of Findings 3-6.

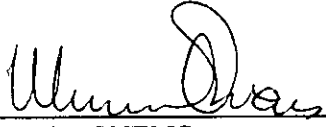
2. Grounds exist for denial of respondent's application for licensure pursuant to Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b) (criminal conviction), by reason of Findings 4-6.

3. Respondent did not show sufficient evidence of rehabilitation to warrant an unrestricted or restricted license.

ORDER

Respondent Jason Charles Fretag's application for licensure as a real estate salesperson is denied.

DATED: August 3, 2007

  
\_\_\_\_\_  
MURIEL EVENS  
Administrative Law Judge  
Office of Administrative Hearings

FILED

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

MAY 24 2004

DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

JASON CHARLES FRETAG,

By *Laurel B...*

Case No. H-1671 FRESNO

OAH No. N-2004050271

}

*Respondent*

**NOTICE OF HEARING ON APPLICATION**

**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 **TUESDAY, JUNE 29, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.

Dated: MAY 24, 2004

DEPARTMENT OF REAL ESTATE

By *James L. Beaver*  
JAMES L. BEAVER, Counsel (27)

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

FILED  
APR 15 2004

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

DEPARTMENT OF REAL ESTATE  
By Laurie J. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of ) No. H-1671 FRESNO  
12 JASON CHARLES FRETAG, )  
13 Respondent. )  
14 )

15 The Complainant, John Sweeney, a Deputy Real Estate  
16 Commissioner of the State of California, for Statement of Issues  
17 against JASON CHARLES FRETAG (herein "Respondent"), alleges as  
18 follows:

19 I

20 Complainant, John Sweeney, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Statement of  
22 Issues in his official capacity.

23 II

24 Respondent made application to the Department of Real  
25 Estate of the State of California for a real estate salesperson  
26 license on or about August 29, 2002 with the knowledge and  
27 understanding that any license issued as a result of said

1 application would be subject to the conditions of Section  
2 10153.4 of the California Business and Professions Code  
3 (hereinafter "the Code").

4 III

5 In response to Question 25 of said application, to  
6 wit: "Have you ever been convicted of any violation of law?  
7 Convictions expunged under Penal Code Section 1203.4 must be  
8 disclosed. However, you may omit minor traffic citations which  
9 do not constitute a misdemeanor or felony offense", Respondent  
10 concealed and failed to disclose the convictions described in  
11 Paragraphs IV and VI, below.

12 IV

13 On or about June 17, 2002, in the First Judicial  
14 District Court, State of Idaho, County of Kootenai, Respondent  
15 was convicted of the crime of Driving Under The Influence in  
16 violation of Section 118-8004, Idaho Code, a misdemeanor and a  
17 crime involving moral turpitude which bears a substantial  
18 relationship under Section 2910, Title 10, California Code of  
19 Regulations (herein "the Regulations"), to the qualifications,  
20 functions or duties of a real estate licensee.

21 V

22 On or about August 4, 1999, in the Superior Court Of  
23 The State Of California, County Of Riverside, Respondent was  
24 convicted of the crime of Driving With Blood Alcohol In Excess  
25 Of .08% in violation of Vehicle Code Section 23152(b), a  
26 misdemeanor and a crime involving moral turpitude which bears a  
27 substantial relationship under Section 2910 of the Regulations

1 to the qualifications, functions or duties of a real estate  
2 licensee.

3 VI

4 On or about the dates tabulated below, in the First  
5 Judicial District Court, State of Idaho, County of Bonner,  
6 Respondent was convicted of the crimes tabulated below in  
7 violation of the provisions of the Idaho Code tabulated below,  
8 each a misdemeanor and a crime involving moral turpitude which  
9 bears a substantial relationship under Section 2910 of the  
10 Regulations to the qualifications, functions or duties of a real  
11 estate licensee:

	<u>DATE</u>	<u>OFFENSE</u>	<u>CODE</u>
12			
13	(a) 08/21/95	Driving With Invalid	§49-301
14		Drivers License (2 Counts)	
15	(b) 11/22/95	Resisting Or Obstructing	§18-705
16		Officer	
17	(c) 05/31/96	Driving Under The Influence	§18-8004
18	(d) 03/14/00	Use Or Possession With Intent	§37-2732(3)
19		To Use Drug Paraphernalia	

20 VII

21 In failing to reveal the convictions described in  
22 Paragraphs IV and VI, above, in said application, Respondent  
23 attempted to procure a real estate license by fraud,  
24 misrepresentation, or deceit, or by making a material  
25 misstatement of fact in said application, which constitutes  
26 cause for denial of Respondent's application for a real estate

27 ///




1 license under Sections 480(c) and 10177(a) of the California  
2 Business and Professions Code.

3 VIII

4 Respondent's criminal convictions described in  
5 Paragraphs IV through VI, inclusive, above, individually and  
6 collectively constitute cause for denial of Respondent's  
7 application for a real estate license under Sections 480(a) and  
8 10177(b) of the California Business and Professions Code.

9 WHEREFORE, Complainant prays that the above-entitled  
10 matter be set for hearing and, upon proof of the charges  
11 contained herein, that the Commissioner refuse to authorize the  
12 issuance of, and deny the issuance of a real estate salesperson  
13 license to Respondent, and for such other and further relief as  
14 may be proper in the premises.

15  
16   
17 JOHN SWEENEY  
18 Deputy Real Estate Commissioner

18 Dated at Fresno, California,  
19 this 5th day of April, 2004.

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