

FILED

FEB 16 2000

DEPARTMENT OF REAL ESTATE

By Jean Armenta

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
MICHAEL FRANCIS HEEDE,)
Respondent.)

No. H-2275 SAC

ORDER GRANTING UNRESTRICTED LICENSE

On December 10, 1987, a Decision was rendered herein denying the Respondent's application for real estate license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on January 20, 1988, and Respondent has operated as a restricted licensee since that time.

On June 14, 1999, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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1 I have considered Respondent's petition 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
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

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

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

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

20 This Order shall become effective immediately.

21 DATED: January 27, 2000.

22 PAULA REDDISH ZINNEMANN
23 Real Estate Commissioner
24
25
26
27

FILED
DEC 11 1987

DEPARTMENT OF REAL ESTATE
BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Laurie A. Gian

* * *

In the Matter of the Application of)

MICHAEL FRANCIS HEEDE,

) NO. H-2275 SAC

) Respondent.)

) N 30200

DECISION

The Proposed Decision dated December 2, 1987, 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 with the following exception:

Condition "D" of the Order of the Proposed Decision is not adopted and shall not be part of the Decision.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

The Decision shall become effective at 12 o'clock noon on December 31, 1987.

IT IS SO ORDERED

December 10, 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 Statement)	
of Issues Against:)	No. H-2275 SAC
)	
MICHAEL FRANCIS HEEDE)	OAH No. N-30200
)	
)	
Respondent.)	
)	

PROPOSED DECISION

On November 5, 1987, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Larry A. Alamao, Counsel, represented complainant.

Michael Francis Heede appeared in his own behalf.

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

FINDINGS OF FACT

I

Charles W. Koenig, Deputy Real Estate Commissioner of the State of California, filed the Statement of Issues against respondent. Koenig acted in his official capacity.

II

On June 2, 1987, respondent submitted an application for a real estate salesperson's license to the Department of Real Estate.

III

In response to question 22 of the application which asks: "Have you ever been convicted of any violation of law?....", respondent answered "Yes". In response to question 24, respondent explained his conviction for theft in Hawaii.

IV

From court documents, respondent's answers on the application and respondent's testimony, on January 10, 1985, in the Circuit Court

of the First Circuit, State of Hawaii, respondent was convicted on a plea of nolo contendere of a violation of Section 708-831(1)(b) of the Hawaii Revised Statutes (Theft), a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

Respondent was placed on five (5) years probation, ordered to pay a \$300 fine and to perform 100 hours of community service. The respondent has paid the fine and performed the community service. He will be on probation until 1990.

V

At the hearing, respondent admitted committing the crime. He was then about 21 years old and living in Hawaii. Since then he has matured and has worked to rehabilitate himself. He has not been involved in any further trouble and has compiled a good work record. He has a job with Cook Realty if he is licensed. Frank L. Cook, president of Cook Realty, is aware of respondent's conviction and is willing to employ and supervise respondent.

DETERMINATION OF ISSUES

I

Cause for denial of respondent's application for licensure was established pursuant to Business and Professions Code, section 480(a), and by reason of Findings III, IV and V.

II

Respondent presented significant evidence of rehabilitation since the crime.

ORDER

I

The application of respondent Michael Francis Heede for issuance of an unrestricted real estate salesperson's license is denied; provided, however, a restricted real estate salesperson'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 ninety (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 all the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

- A. 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee.

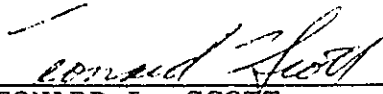
- B. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, and Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
- C. 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 (2) years have elapsed from the date of issuance of the restricted license to respondent.
- D. Respondent shall, within six (6) months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that he 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.
- E. Respondent shall not be employed by any real estate broker unless said employment has been approved in writing by the Real Estate Commissioner.
- F. Respondent shall submit with any application for license 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

*Not
Adopted*

which granted the right to a restricted license; and

- (2) That the employing real estate broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

Dated: December 2, 1987


LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings

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

FILED
OCT 21 1987

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

MICHAEL FRANCIS HEEDE

Case No. H-2275 SAC

OAH No. _____

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 OFFICE OF
ADMINISTRATIVE HEARINGS, 501 J STREET, 2ND FLOOR-HEARING ROOM 220, SACRAMENTO, CA

on the 5th day of November, 19 87, at the hour of 10:00 a.m., or as soon thereafter
as the matter can be heard, upon the Statement of Issues 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 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: 10-21-87

By

Larry Alamao
LARRY A. ALAMAO Counsel

1 LARRY A. ALAMAO, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 (916) 739-3607
6
7

FILED
OCT 09 1987

DEPARTMENT OF REAL ESTATE

By Laurie B. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 MICHAEL FRANCIS HEEDE,)
13 Respondent.)
14)

NO. H-2275 SAC

STATEMENT OF ISSUES

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against MICHAEL FRANCIS HEEDE (hereinafter "respondent") alleges
18 as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about June 2, 1987.

23 II

24 Complainant, Charles W. Koenig, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity.

27 ///

1 III

2 On or about January 10, 1985, in the Circuit Court of
3 the First Circuit, State of Hawaii, respondent was convicted of a
4 violation of Section 708-831(1)(b) of the Hawaii Revised Statutes
5 (Theft), a crime involving moral turpitude which bears a
6 substantial relationship under Section 2910, Title 10, California
7 Administrative Code, to the qualifications, functions or duties of
8 a real estate licensee.

9 IV

10 The crime of which respondent was convicted, as alleged
11 in Paragraph III above, constitutes cause for denial of
12 respondent's application for a real estate license under Sections
13 480(a) and 10177(b) of the California Business and Professions
14 Code.

15 WHEREFORE, the Complainant prays that the above-entitled
16 matter be set for hearing, and upon proof of the charges contained
17 herein, that the Commissioner refuse to authorize the issuance of,
18 and deny the issuance of, a real estate salesperson license to
19 respondent, and for such other and further relief as may be proper
20 in the premises.

21
22 
23 CHARLES KOENIG
24 Deputy Real Estate Commissioner

25 Dated at Sacramento, California,
26 this 5th day of October, 1987.
27