

FILED

JUL 18 2005

DEPARTMENT OF REAL ESTATE

By

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-2317 SD

DAVID JAMES GENZLER,

Respondent.

ORDER DENYING REINSTATEMENT OF LICENSE

On August 15, 1997, a Decision was rendered herein
revoking the real estate salesperson license of Respondent.

On May 20, 2004, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

I have considered the petition of Respondent and the
evidence and arguments in support. Respondent has failed to
demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate salesperson license.

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

8 The Department has developed criteria to assist in
9 evaluating the rehabilitation of an applicant for reinstatement
10 of a license. Among the criteria, Section 2911 of Title 10
11 California Code of Regulations, relevant in this proceeding are:

12 (j) Discharge of, or bona fide efforts toward
13 discharging, adjudicated debts or monetary obligations to others.
14 Respondent owes in excess of \$183,000 to his attorney.

15 (k) Correction of business practices resulting in
16 injury to others or with the potential to cause such injury.
17 Respondent has no experience acting in a fiduciary capacity since
18 the effective date of the Decision in this matter. Respondent
19 has not established that he has corrected his business practices.

20 Given the fact that Respondent has not established that
21 he has complied with Sections 2911(j), and (k) of Title 10,
22 California Code of Regulations, I am not satisfied that
23 Respondent is sufficiently rehabilitated to receive a real estate
24 salesperson license.

25 I am satisfied, however, that it will not be against
26 the public interest to issue a restricted real estate salesperson
27 license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of his real estate salesperson license
3 is denied.

4 A restricted real estate salesperson license shall be
5 issued to Respondent pursuant to Section 10156.5 of the Business
6 and Professions Code, if Respondent satisfies the following
7 conditions within nine (9) months from the date of this Order:

8 1. Respondent shall take and pass the real estate
9 salesperson license examination.

10 2. Submittal of a completed application and payment of
11 the fee for a real estate salesperson license.

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

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

22 A. The restricted license issued to Respondent may be
23 suspended prior to hearing by Order of the Real Estate
24 Commissioner in the event of Respondent's conviction or plea of
25 nolo contendere to a crime which is substantially related to
26 Respondent's fitness or capacity as a real estate licensee.

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1 B. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner on evidence satisfactory to the Commissioner that
4 Respondent has violated provisions of the California Real Estate
5 Law, the Subdivided Lands Law, Regulations of the Real Estate
6 Commissioner or conditions attaching to the restricted license.

7 C. Respondent shall submit with any application for
8 license under an employing broker, or any application for
9 transfer to a new employing broker, a statement signed by the
10 prospective employing broker on a form approved by the Department
11 of Real Estate which shall certify:

- 12 (1) That the employing broker has read the Decision of
13 the Commissioner which granted the right to a
14 restricted license; and
15 (2) That the employing broker will exercise close
16 supervision over the performance by the restricted
17 licensee relating to activities for which a real
18 estate license is required.

19 D. Respondent shall not be eligible to apply for the
20 issuance of an unrestricted real estate license nor the removal
21 of any of the limitations, conditions or restrictions of a
22 restricted license until two (2) years have elapsed from the date
23 of the issuance of the restricted license to respondent.

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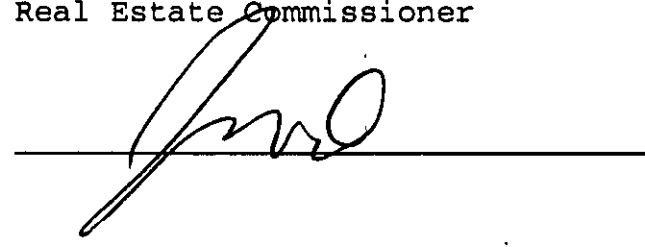
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This Order shall become effective at 12 o'clock
noon on AUG 08 2005, 2005.

Dated: 7-12, 2005.

JEFF DAVI
Real Estate Commissioner



FILED
SEP 14 2001

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID JAMES GENZLER,) NO. H-2317 SD
Respondent.)

ORDER DENYING RECONSIDERATION

On July 24, 2001, an Order Denying Reinstatement was rendered in the above-entitled matter to become effective September 14, 2001.

On August 13, 2001, Respondent petitioned for reconsideration of the Order of July 24, 2001.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Order of July 24, 2001, and reconsideration is hereby denied.

IT IS HEREBY ORDERED September 14, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

FILED
AUG 14 2001

DEPARTMENT OF REAL ESTATE

By: Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

DAVID JAMES GENZLER,)

Respondent.)

NO. H-2317 SD

ORDER STAYING EFFECTIVE DATE

On July 24, 2001, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective on August 15, 2001.

On August 13, 2001, Respondent petitioned for reconsideration of the Order Denying Reinstatement of License of July 24, 2001.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License is stayed for a period of thirty (30) days. The Order Denying Reinstatement of License of July 24, 2001, shall become effective at 12 o'clock noon on September 14, 2001.

DATED: August 14, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: John R. Liberator

JOHN R. LIBERATOR
Chief Deputy Commissioner

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FILED
JUL 26 2001

DEPARTMENT OF REAL ESTATE

By Kathleen Conners

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID JAMES GENZLER,) NO. H-2317 SD
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On August 15, 1997, a Decision was rendered herein
revoking the real estate salesperson license of Respondent.

On October 3, 2000, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

I have considered the petition of Respondent and the
evidence and arguments in support. Respondent has failed to
demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate salesperson license, in that Respondent
has no experience acting in a fiduciary capacity since the

1 effective date of the Decision in this matter. Consequently,
2 Respondent is not able to present any evidence of correction of
3 practices that led to the disciplinary action in this matter.
4 Respondent, therefore, has not demonstrated compliance with
5 Section 2911(j), Title 10, California Code of Regulations
6 (Regulations).

7 Further, Respondent has failed to provide evidence of
8 restitution to a person who has suffered monetary losses as a
9 result of Respondent's acts. Said loss was reduced to a monetary
10 penalty imposed in connection with a criminal conviction and is
11 not less than \$11,405.00. As a consequence, Respondent has not
12 demonstrated compliance with Sections 2911(b) and (f) of the
13 Regulations.

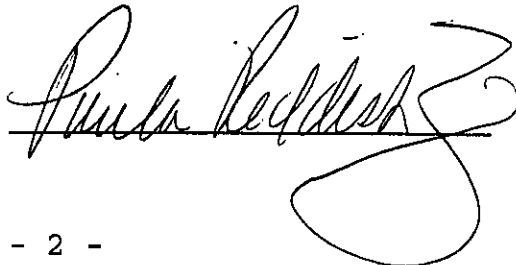
14 Finally, Respondent has not completed probation or
15 parole on the criminal conviction that led to this matter.
16 Respondent has not demonstrated compliance with Section 2911(d)
17 of the Regulations.

18 NOW, THEREFORE, IT IS ORDERED that Respondent's
19 petition for reinstatement of his real estate salesperson license
20 is denied.

21 This Order shall be effective at 12 o'clock noon on
22 August 15, 2001.

23 DATED: July 24, 2001

24 PAULA REDDISH ZINNEMANN
25 Real Estate Commissioner

26 
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BEFORE THE DEPARTMENT OF REAL ESTATE

By K. M. [Signature]

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
DAVID JAMES GENZLER,)
Respondent.)
_____)

NO. H-2317 SD

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 4, 1997, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

I

On May 12, 1997, J. Chris Graves made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department on May 12, 1997.

On August 4, 1997, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

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

III

On December 10, 1996, in the Superior Court of California, County of San Diego, State of California, Respondent was convicted to one count of violating Section 187 of the California Penal Code (murder) and was convicted to one count of violating Section 245(a)(1) of the California Penal Code (assault with a Deadly Weapon), felony crimes.

IV

The evidence established that the crimes of which Respondent were convicted involve moral turpitude and are substantially related to the qualifications, functions and duties of a real estate licensee.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 490 and 10177(b).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

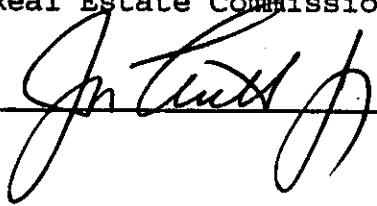
The license and license rights of Respondent
DAVID JAMES GENZLER under the provisions of Part I of
Division 4 of the Business and Professions Code are
revoked.

This Decision shall become effective at 12
o'clock noon on September 10, 1997.

DATED: _____

8/15/97

JIM ANTT, JR.
Real Estate Commissioner

_____

FILED
AUG - 4 1997
DEPARTMENT OF REAL ESTATE

By K. W. [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-2317 SD
DAVID JAMES GENZLER)
Respondent.)

DEFAULT ORDER

Respondent, DAVID JAMES GENZLER, having failed to file
a Notice of Defense within the time required by Section 11506 of
the Government Code, is now in default. It is, therefore, ordered
that a default be entered on the record in this matter.

IT IS SO ORDERED August 4, 1997.

JIM ANTT, JR.
Real Estate Commissioner

[Signature]
By: RANDOLPH BRENDIA
Regional Manager

SACD.
Play

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
MAY 12 1997
DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-2317 SD
DAVID JAMES GENZLER,)	A C C U S A T I O N
Respondent.)	

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against DAVID JAMES GENZLER is informed and alleges in his official capacity as follows:

I

Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

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II

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate salesperson on September 8, 1989.

III

On December 10, 1996, in the Superior Court of California, County of San Diego, State of California, respondent was convicted by jury to one count of violating Section 187 of the California Penal Code (Murder) and respondent was convicted by jury to one count of violating Section 245(a)(1) of the California Penal Code (Assault With a Deadly Weapon) for felony crimes which by their facts and circumstances involve moral turpitude and are substantially related under Section 2910, Title 10, Chapter 6 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The facts as alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of respondent under the Real Estate Law.

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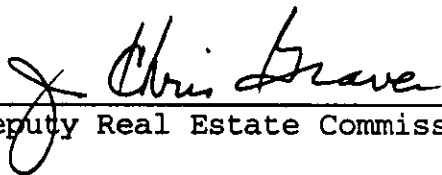
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1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against the
4 license and license rights of respondent DAVID JAMES GENZLER under
5 the Real Estate Law and for such other and further relief as may
6 be proper under other applicable provisions of law.

7 Dated at San Diego, California
8 this 12th day of May, 1997.
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11 Deputy Real Estate Commissioner
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24 cc: David James Genzler
25 Sacto.
26 BK
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