

FILED
AUG 24 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
NICKOLAS SALDIVAR,) NO. H-2785 SAC
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On November 17, 1992, 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 broker license. A restricted real estate broker license was issued to Respondent on December 23, 1992, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On December 19, 2000, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license.

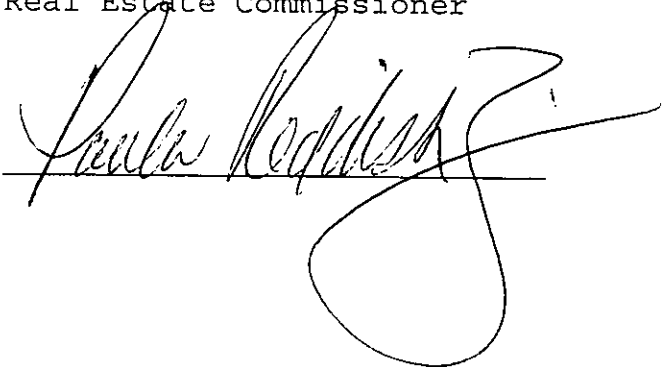
1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be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

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

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

14 This Order shall be effective immediately.

15 DATED: August 7, 2001
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18 PAULA REDDISH ZINNEMANN
19 Real Estate Commissioner
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1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
8 for removal of restrictions is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies the
10 following conditions within six (6) months from the date of this
11 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 DATED: June 6, 1994

21 CLARK WALLACE
22 Real Estate Commissioner

23 
24 BY: John R. Liberator
25 Chief Deputy Commissioner
26
27

NOV 24 1992

By Kathleen Contreras

In the Matter of the Application of)
)
 NICKOLAS SALDIVAR,)
)
 Respondent.)

N-41351

This Decision shall become effective at
12 o'clock noon on December 14, 1992.

IT IS SO ORDERED November 17, 1992.

BY: 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-2785 SAC
	)	
NICKOLAS SALDIVAR,	)	OAH No. N-41351
	)	
	)	
Respondent.	)	

PROPOSED DECISION

On September 4, 1992, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Susan Y. Bennett, Staff Counsel, represented the complainant.

David M. Shore, Attorney At Law, represented respondent.

Evidence was received and the record remained open for the receipt of Petition and Order under Penal Code section 1203.4. The Petition and Order was received on, October 9, 1992 and marked Exhibit B. The record was closed on October 9, 1992.

FINDINGS OF FACT

I

Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner, filed the Statement of Issues in his official capacity and not otherwise.

II

Respondent filed an application with the Department of Real Estate for a real estate broker license on March 20, 1992.

III

On July 10, 1990, in the Municipal Court, County of Sacramento, State of California, respondent was convicted of a

violation of section 476a(a) of the California Penal Code (Non-Sufficient Funds - Checks), a crime involving moral turpitude which bears substantial relationship to the qualifications, functions and duties of a real estate licensee. Respondent wrote a check knowing there were nonsufficient funds in his account to cover it. He was expecting money to be deposited in the account by his cousin through marriage who owed him money from a personal loan. The cousin did not make the expected deposit. Respondent had the opportunity to make restitution to the bank at the time, but failed to do so. Respondent served thirty days in the county jail on the work release project. He was placed on three years probation. He completed restitution in the amount of \$3,883.17 on May 29, 1992.

IV

Respondent is forty-eight years old and he has been a mortgage broker since 1976. He held a real estate salesperson's license from 1973 until January 1987 when he let it lapse. There is no evidence of any prior discipline. Respondent obtained a Bachelors of Science degree in finance from Sacramento State University. He is a direct endorsement underwriter for HUD. He has been married since 1966 and has two children. Respondent has been active in fighting the use of drugs and prostitution in the Southside Park area of Sacramento. He is active with the area swim team and he coaches wrestling and judo. One night a week he coaches children at Gateway Homes.

V

On October 9, 1992, respondent's petition for relief under Penal Code section 1203.4 was granted and it was ordered that his guilty plea be withdrawn and a plea of not guilty be entered.

DETERMINATION OF ISSUES

I

Cause for denial of respondent's application for licensure was established pursuant to Business and Professions Code sections 480(a) and 10177(b) by reason of Finding III.

II

Rehabilitation was established pursuant to Title 10, California Code of Regulations section 2911, by reason of Findings IV and V. It would not be against the public interest to grant respondent a restricted license.

ORDER

Respondent's application for a real estate broker license is denied; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156 of the Business and Professions Code if respondent makes application therefor within 90 days from the effective date of the Decision herein. The restricted license issued to the respondent shall be subject to all of 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 said Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - a. The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or
 - b. The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to respondent.

Dated: November 4, 1952



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

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

FILED
JUL 23 1992
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

NICKOLAS SALDIVAR,

Respondent

By Kathleen Contreras

Case No. H-2785 SAC

OAH No. _____

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, 501 J Street, Suite 220,
Sacramento, California 95814

on September 4, 1992, at the hour of 1:30 PM,
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. 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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: July 23, 1992

By Susan Y. Bennett
SUSAN Y. BENNETT
Counsel

1 SUSAN Y. BENNETT, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 739-3607

FILED
JUL 15 1992

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 NICKOLAS SALDIVAR,)
13 Respondent.)

NO. H-2785 SAC

STATEMENT OF ISSUES

14
15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California for Statement of Issues
17 against NICKOLAS SALDIVAR (hereinafter "Respondent") is informed
18 and alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate broker license
22 on or about March 20, 1992.

23 II

24 The 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.

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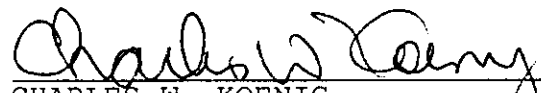
III

On or about July 10, 1990, in the Municipal Court, County of Sacramento, State of California, Respondent was convicted of a violation of Section 476a(a) of the California Penal Code (Non-Sufficient Funds - Checks), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

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

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


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 30th day of June, 1992.