

1 Department of Real Estate
P. O. Box 187000
2 Sacramento, CA 95818-7000
3 Telephone: (916) 227-0789
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FILED
DEC 31 2003

DEPARTMENT OF REAL ESTATE

By Laurie G. Jan

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-2882 SD
12 ROBERT WILLIAM KOPANIASZ,) STIPULATION AND AGREEMENT
13 Respondent.)
14

15 It is hereby stipulated by and between ROBERT WILLIAM
16 KOPANIASZ (hereinafter "Respondent") and Respondent's attorney
17 Cary W. Miller of Luce, Forward, Hamilton & Scripps, and the
18 Complainant, acting by and through David A. Peters, Counsel for
19 the Department of Real Estate, as follows for purpose of
20 settling and disposing of the Accusation filed August 6, 2003 in
21 this matter:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
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) (Government Code Section 11500 et seq.),

27 ///

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

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

7 3. On August 22, 2003, Respondent filed his Notice
8 of Defense pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 his Notice of Defense. Respondent acknowledges that by
12 withdrawing said Notice of Defense he will thereby waive his
13 right to require the Commissioner to prove the allegations in
14 the Accusation at a contested hearing held in accordance with
15 the provisions of the APA and that he will waive other rights
16 afforded to him in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interests of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being
24 admitted or denied, will serve as a prima facie basis for the
25 disciplinary action stipulated to herein. The Real Estate
26 Commissioner shall not be required to provide further evidence
27 to prove said factual allegations.

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I

The conduct of Respondent ROBERT WILLIAM KOPANIASZ, as described in the Accusation, constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent under the provisions of Sections 490 and 10177(b) of the Business and Professions Code.

ORDER

I

The real estate broker license and all license rights of Respondent ROBERT WILLIAM KOPANIASZ under the Real Estate Law are revoked; however, a restricted real estate broker 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 the restricted 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 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 is substantially related to Respondent's fitness or capacity as a real estate licensee.

///

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

7 C. Respondent shall not be eligible to apply for the
8 issuance of an unrestricted real estate license nor for the
9 removal of any of the conditions, limitations or restrictions of
10 the restricted of a restricted license until two (2) years have
11 elapsed from the effective date of this Decision.

12 D. Respondent shall, within nine (9) months from the
13 effective date of this Decision, present evidence satisfactory
14 to the Real Estate Commissioner that Respondent has, since the
15 most recent issuance of an original or renewal real estate
16 license, taken and successfully completed the continuing
17 education requirements of Article 2.5 of Chapter 3 of the Real
18 Estate Law for renewal of a real estate license. If Respondent
19 fails to satisfy this condition, the Commissioner may order the
20 suspension of the restricted license until the Respondent
21 presents such evidence. The Commissioner shall afford
22 Respondent the opportunity for a hearing pursuant to the
23 Administrative Procedure Act to present such evidence.

24 E. Respondent shall, within six (6) months from the
25 effective date of this Decision, take and pass the Professional
26 Responsibility Examination administered by the Department
27 including the payment of the appropriate examination fee. If

1 Respondent fails to satisfy this condition, the Commissioner may
2 order suspension of Respondent's license until Respondent passes
3 the examination.

4 F. Any restricted real estate broker license issued
5 to Respondent FLOYD may be suspended or revoked for a violation
6 by Respondent of any of the conditions attaching to the
7 restricted license.

8
9 11/21/03
DATED

10 David A. Peters
DAVID A. PETERS, Counsel
DEPARTMENT OF REAL ESTATE

11 * * *

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

23
24 11/19/03
DATED

25 Robert William Kopaniasz
ROBERT WILLIAM KOPANIASZ
Respondent

26 ///

27 ///

1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my client accordingly.

3
4 11/19/03

DATED

Cary W. Miller

CARY W. MILLER
Attorney for Respondent

6 * * *

7 The foregoing Stipulation and Agreement for
8 Settlement is hereby adopted by the Real Estate Commissioner as
9 her Decision and Order and shall become effective at 12 o'clock
10 noon on JANUARY 21, 2004 .

11 IT IS SO ORDERED December 8, 2003.

12 PAULA REDDISH ZINNEMANN
13 Real Estate Commissioner

14 John R. Liberator
15

16
17 BY: John R. Liberator
18 Chief Deputy Commissioner

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE SEP 10 2003
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Lucia A. Z...

In the Matter of the Accusation of

ROBERT WILLIAM KOPANIASZ,

}

Case No. H-2882 SD

OAH No.

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, 1350 FRONT STREET, SUITE 6022, SAN DIEGO, CA 92101 on TUESDAY, DECEMBER 2, 2003, 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.

Dated: SEPTEMBER 10, 2003

DEPARTMENT OF REAL ESTATE

By David A. Peters
DAVID A. PETERS, Counsel (7)

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

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

FILED
AUG - 6 2003

DEPARTMENT OF REAL ESTATE

By Laurie C. Zin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ROBERT WILLIAM KOPANIASZ,) No. H-2882 SD
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 ROBERT WILLIAM KOPANIASZ (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.

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III

On or about August 7, 2000, in the Superior Court of the State of California, County of San Diego, Respondent was convicted of the crime of Driving Under The Influence Of Alcohol With One Prior in violation of Vehicle Code Section 23152(a), and of the crime of Possession Of A Controlled Substance in violation of Health And Safety Code Section 11377(a), each a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

Respondent's conviction described in Paragraph III, above, constitutes cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

CIRCUMSTANCES IN AGGRAVATION

V

On or about October 18, 1995, in the Municipal Court of the State of California, County of San Diego, San Diego Municipal District, Respondent was convicted of the crime of Driving Under The Influence of Alcohol in violation of Vehicle Code Section 23152(a), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

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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.

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9 
10 CHARLES W. KOENIG
11 Deputy Real Estate Commissioner

12 Dated at Sacramento, California,
13 this 5th day of August, 2003.
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