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MAY 19 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
SHERRI ANN SOUZA-ADAMS,
Respondent.

No. H-2909 SD

ORDER GRANTING REINSTATEMENT OF LICENSE

On February 25, 2004, in Case No. H-2909 SD, a Decision was rendered revoking the real estate salesperson license of Respondent effective March 19, 2004, 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 March 19, 2004, and Respondent has operated as a restricted licensee since that time.

On November 26, 2007, 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 thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
3 Respondent satisfies the following conditions within nine (9) months from the date of this Order:

- 4 1. Submittal of a completed application and payment of the fee for a real
5 estate salesperson license.
6 2. Submittal of evidence of having, since the most recent issuance of an
7 original or renewal real estate license, taken and successfully completed the continuing education
8 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
9 license.

10 This Order shall become effective immediately.

11 IT IS SO ORDERED 6/28/09
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13 JEFF DAVI
14 Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB 27 2004

DEPARTMENT OF REAL ESTATE

By Laurie P. Zini

* * *

In the Matter of the Accusation of)
SHERRI ANN SOUZA-ADAMS,)
Respondent.)
_____)

NO. H-2909 SD

OAH NO. L-2003110331

DECISION

The Proposed Decision dated February 4, 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension 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.

This Decision shall become effective at 12 o'clock noon
on MARCH 19, 2004.

IT IS SO ORDERED February 25, 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 Accusation of:

SHERRI ANN SOUZA-ADAMS,

Respondent.

Case No. H-2909 SD

OAH No. L2003110331

PROPOSED DECISION

On January 20, 2004 in San Diego, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

James L. Beaver, Counsel, represented complainant.

Jacqueline A. Oliver, Attorney at Law, represented respondent.

The matter was submitted on January 20, 2004.

FACTUAL FINDINGS

1. Charles W. Koenig, Deputy Real Estate Commissioner of the State of California (hereafter, "Department") filed Accusation No. H-2909 SD in his official capacity on October 21, 2003. Respondent filed a timely Notice of Defense.

2. The Department issued salesperson license number 00968320 to respondent and at relevant times, the license was in full force and effect.

On August 12, 2003, respondent signed a Salesperson Renewal Application and submitted it to the Department.

3. On January 18, 1998, in the San Diego County Municipal Court, San Diego Judicial District, respondent pled guilty and was convicted of violating Vehicle Code sections 23152(a), driving under the influence of alcohol, and 23152(b), driving with a blood alcohol level exceeding 0.08 percent. She also admitted to having been convicted of violating section 23152(b) in September 25, 1995. The court placed respondent on

probation, sentenced her to a year in custody, suspended, required her to serve 48 hours in custody, fined her \$1,300.00, and ordered her to perform 25 days of public service. Respondent performed the public service obligation by working at a local park and recreation center.

Respondent committed the offense on October 22, 1997. The two separate convictions in 1995 and 1997 for driving under the influence involve moral turpitude and are substantially related to the qualifications, functions, and duties of a real estate salesperson.

4. On October 25, 2000, in the San Diego County Superior Court, respondent pled guilty and was convicted of one count of violating Penal Code section 415(1), fighting in public, a misdemeanor. The court then placed respondent on summary probation for three years and fined her \$300.00. On February 28, 2001, the court ordered respondent to pay the victim \$96.00 in restitution.

Respondent committed the offense on June 1, 2000. According to the police report, respondent was involved in a loud argument with two people when the police arrived at respondent's home. One of them was a tenant in respondent's home and the other was his guest. Respondent was angry with his tenant and wanted him to leave the residence, and wanted his guest to leave as well. Respondent had been drinking. During the course of the argument, the guest had climbed up a few stairs when respondent grabbed her wrist. The guest was startled and yelled out. The officers then arrested respondent.

The offense respondent committed involved moral turpitude, and is substantially related to the qualifications, functions, and duties of a real estate salesperson because of the nature of the relationship between respondent, her tenant and his guest. Respondent wanted to evict her tenant for various reasons, and as a real estate salesperson, she should know the proper way to do that. The manner she chose was wrong and as a result, she committed an offense against her tenant's guest. The crime is also substantially related to the qualifications, functions and duties of a real estate salesperson because respondent's conduct was in part a product of her drinking, and in light of her two previous convictions for driving under the influence, show a pattern of repeated and willful disregard of law within the meaning of Title 10, California Code of Regulations, section 2910(a)(10).

5. Question number 3 of the Salesperson Renewal Application asks:

Within the past four year period have you been convicted of any violation of law? Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic offenses which do not constitute a misdemeanor or felony offense. . . If yes, complete items 15-16 on page 2.

On page 2 of the application under the heading "Conviction Details" appears the following:

"Convicted" as used in Item 3 includes a verdict of guilty by judge or jury, a plea of guilty or nolo contendere, or a forfeiture of bail in municipal, superior or federal

court. All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed or expunged, including expungements per Section 1203.4 of the Penal Code, or if you have been pardoned.

Below these instructions is a grid with spaces to enter relevant information related to the conviction.

Respondent answered question number 3 by checking the No box. Respondent's answer was false in that she had been convicted of fighting in public in 2000. She did not provide any details of the conviction in the space provided in item 15.

6. Respondent testified in her own behalf. Regarding the renewal application, she testified there were a number of things going on her life at the time she completed the application, and she simply forgot about the conviction. She had been trying to put the conviction out of her mind. She pointed to the death of two clients by a drunk driver, an injury she had just suffered, moving her elderly parents, and planning a wedding.

Respondent's explanation is unsatisfactory. The question is a simple one, and one she had answered in past renewal applications. Presumably she reported her two driving under the influence convictions in the past, and therefore was aware of the Department's interest in a licensee's criminal past.

7. Respondent submitted several letters. Camille Langenfeld described how respondent helped her with several problems after her son and daughter-in-law were killed in a car crash. Rebecca Ross, the president of Elite Mortgage, wrote she has known respondent for 15 years and holds her to the highest esteem as a real estate professional. She indicated respondent handled the purchase of her first home for her and since that has worked with her professionally. As a mortgage broker, she has handled many transactions with respondent and believes respondent takes good care of her clients and acts professionally. She added that respondent is a person of honesty and integrity. Another agent for Elite Escrow echoed those comments. Several clients and friends also wrote letters containing genuinely positive comments about her.

8. Section 2912 of Title 10 sets forth the Department's criteria of rehabilitation. The applicable criteria show respondent's last criminal act occurred more than three years ago. She recently completed probation, but the conviction has not been expunged. Her two prior offenses for driving while intoxicated occurred six and nine years ago.

Other evidence bearing on the issue of rehabilitation shows that since the offense, respondent has lived in a stable home environment. Respondent offered no evidence of abstinence from drinking, yet more than two years have elapsed since the fighting conviction and there was no evidence of subsequent misconduct related to drinking.

Respondent's conviction for fighting in public was a minor offense, and treated as such by the court. The victim suffered no injury. It occurred in respondent's home, but it touched her profession because the victim was the guest of a tenant of hers who she wanted

to evict. It also involved drinking, a cause for concern since driving is an integral part of a real estate salesperson's job and she had suffered two prior convictions for driving while intoxicated. Respondent also failed to disclose her fighting in public conviction which also raises concerns about her honesty. In all, respondent's actions warrant a restricted license, but do not require revocation of her license.

LEGAL CONCLUSIONS

1. Cause to revoke or suspend respondent's real estate salesperson's license for violation of Business and Professions Code sections 490 and 10177(b), conviction of crimes involving involve moral turpitude and substantially related to the qualifications, functions, and duties of a real estate salesperson, was established by reason of Findings 3 and 4.
2. Cause to revoke or suspend respondent's real estate salesperson's license for violation of Business and Professions Code section 10177(a), making a false statement in a renewal application, was established by reason of Findings 3, 5 and 6.
3. Cause for issuance of a restricted real estate salesperson license was established by reason of Findings 6, 7, and 8.

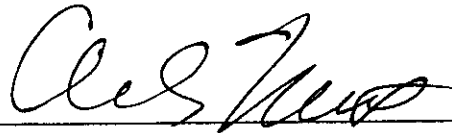
ORDER

All licenses and licensing rights of respondent Sherry Ann Souza-Adams under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 90 days from the effective date of this Decision. 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 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.
2. 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, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

3. 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 attaching to the restricted license until two (2) years have elapsed from the effective date of this Decision.
4. 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, on a form approved by the Department of Real Estate which shall certify:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license: and
 - (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commission that respondent 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: Feb 4, 2004



ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

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

FILED
NOV 19 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SHERRI ANN SOUZA-ADAMS,

Case No. H-2909 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, JANUARY 20, 2004**, at the hour of **1:30 P.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.

DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 19, 2003

By James L. Beaver
JAMES L. BEAVER, Counsel

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
OCT 21 2003

DEPARTMENT OF REAL ESTATE

By Luisa L. Silva

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SHERRI ANN SOUZA-ADAMS,) No. H-2909 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 SHERRI ANN SOUZA-ADAMS (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 At all times herein mentioned, Respondent was and now
21 is licensed and/or has license rights under the Real Estate Law,
22 Part 1 of Division 4 of the Business and Professions Code
23 (hereinafter "Code") as a real estate salesperson.

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 September 25, 1995, in the Municipal Court of the State of California, County of San Diego, Respondent was convicted of the crime of Driving With .08% Or More Blood Alcohol in violation of Vehicle Code Section 23152(b), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

On or about January 16, 1998, in the Municipal 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 Driving With .08% Or More Blood Alcohol With One Prior in violation of Vehicle Code Section 23152(b), each 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.

V

On or about October 25, 2000, in the Superior Court of the State of California, County of San Diego, Respondent was convicted of the crime of Fighting In Public in violation of Penal Code Section 415(1), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under

1 Section 2910 of the Regulations to the qualifications, functions
2 or duties of a real estate licensee.

3 VI

4 On or about August 28, 2003, Respondent made
5 application to the Department of Real Estate of the State of
6 California for the renewal of Respondent's license as a real
7 estate salesperson, but in response to Question 3 of said
8 application, to wit: "Within the last four year period, have
9 you been convicted of any violation of law? Convictions
10 expunged under Penal Code Section 1203.4 must be disclosed.
11 However, you may only omit minor traffic citations which do not
12 constitute a misdemeanor or felony offense", Respondent answered
13 "No", thereby concealing and failing to disclose the conviction
14 described in Paragraph V, above.

15 VII

16 The conviction suffered by Respondent described in
17 Paragraph V, above, individually and in conjunction with the
18 facts described in Paragraphs III and IV, above, constitutes
19 cause under Sections 490 and 10177(b) of the Code for suspension
20 or revocation of all licenses and license rights of Respondent
21 under the Real Estate Law.

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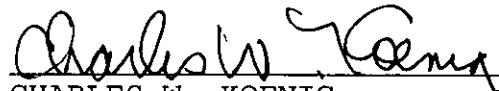
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VIII

Respondents failure to disclose the conviction described in Paragraph V, above, in Respondent's license renewal application, as described in Paragraph VI, above, constitutes cause under Section 10177(a) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 15th day of October, 2003.