

FILED  
MAR 16 1998

BEFORE THE DEPARTMENT OF REAL ESTATE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

By Kathleen Contreras

In the Matter of the Accusation of )	
RUSSELL TERRY SCHAUER )	NO. H-3307 SAC
Respondent. )	<u>DECISION</u>

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 February 10, 1998, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

I

On September 25, 1997, Charles W. Koenig 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 September 25, 1997.

On February 10, 1998, 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 broker licensee with the right to late renewal of said license.

III

On or about May 12, 1995, in the Superior Court, County of

Sacramento, State of California, in Case No. 95AS00203, a final judgment was entered against Respondent based on grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required.

IV

On or about September 9, 1996, in the United States Bankruptcy Court for the Eastern District of California, in Case No. 92-2726, a final judgment was entered against Respondent based on grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required.

PRIOR ADMINISTRATIVE ACTION

In Case No. H-1225 SAC, effective April 18, 1977, the Real Estate Commissioner denied the real estate salesperson license application of Respondent but granted Respondent the right to a restricted real estate salesperson license for a violation of Section 480(b) of the Code.

In Case No. H-1263 SAC, effective May 18, 1977, the Real Estate Commissioner denied the real estate broker license application of Respondent but granted Respondent the right to a restricted real estate broker license for a violation of Section 480(b) of the Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Section 10177.5.

II

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

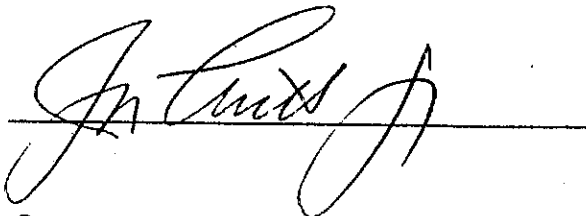
ORDER

All licenses and licensing rights of respondent RUSSELL TERRY SCHAUER, 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 April 6, 1998.

DATED: 2/25, 1998.

JIM ANTT, JR.  
Real Estate Commissioner



FILED  
FEB 10 1998

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

DEPARTMENT OF REAL ESTATE

*Shelly Ely*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 RUSSELL TERRY SCHAUER )  
13 Respondent. )  
14 \_\_\_\_\_ )

NO. H-3307 SAC  
DEFAULT ORDER

15 Respondent, RUSSELL TERRY SCHAUER, having failed to file  
16 a Notice of Defense within the time required by Section 11506 of  
17 the Government Code, is now in default. It is, therefore, ordered  
18 that a default be entered on the record in this matter.

19 IT IS SO ORDERED FEBRUARY 10, 1998.

20 JIM ANTT, JR.  
21 Real Estate Commissioner

22  
23 By:

*Steven J. Ellis*  
24 STEVEN J. ELLIS  
25 Regional Manager  
26  
27



1 LARRY A. ALAMAO, Counsel  
State Bar No. 47379  
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FILED  
SEP 25 1997  
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 Accusation of )  
12 RUSSELL TERRY SCHAUER, ) NO. H- 3307 SAC  
13 Respondent. ) ACCUSATION

14 The Complainant, Charles W. Koenig, a Deputy Real Estate  
15 Commissioner of the State of California for cause of Accusation  
16 against RUSSELL TERRY SCHAUER (hereinafter "Respondent") is  
17 informed and alleges as follows:

18 I

19 Respondent is presently licensed and/or has license  
20 rights under the Real Estate Law, Part 1 of Division 4 of the  
21 Business and Professions Code (hereinafter "Code") as an expired  
22 real estate broker licensee with the right to late renewal of said  
23 license.

24 II

25 The Complainant, Charles W. Koenig, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Accusation  
27 against Respondent in his official capacity.



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On or about September 9, 1996, in the United States Bankruptcy Court for the Eastern District of California, in Case No. 92-2726, a final judgment was entered against Respondent based on grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required.

V

The facts alleged above constitute cause under Section 10177.5 of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

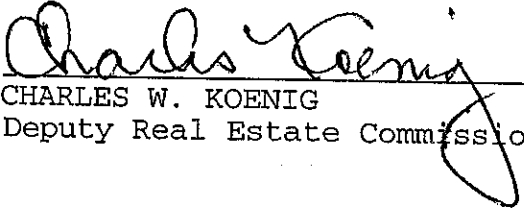
PRIOR ADMINISTRATIVE ACTION

In Case No. H-1225 SAC, effective April 18, 1977, the Real Estate Commissioner denied the real estate salesperson license application of Respondent but granted Respondent the right to a restricted real estate salesperson license for violations of Sections 10177(a) and 10177(b) of the Code.

In Case No. H-1263 SAC, effective May 18, 1977, the Real Estate Commissioner denied the real estate broker license application of Respondent but granted Respondent the right to a restricted real estate broker license for violations of Sections 10177(a) and 10177(b) of the Code.

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 all  
4 licenses and license rights of Respondent under the Real Estate  
5 Law (Part 1 of Division 4 of the Business and Professions Code),  
6 and for such other and further relief as may be proper under other  
7 provisions of law.

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CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 9<sup>th</sup> day of September, 1997.