

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JESSE EARL CHRISP,

Respondent.

Case No. H-3613 SAC

OAH No. N2001100091

PROPOSED DECISION

Administrative Law Judge Muriel Evens, Office of Administrative Hearings, State of California, heard this matter in Sacramento, California, on November 28, 2001.

Larry A. Alamao, Assistant Chief Counsel, represented complainant Charles W. Koenig.

Respondent was present and represented himself.

The matter was submitted on November 28, 2001.

FACTUAL FINDINGS

1. The complainant, Charles W. Koenig, a Deputy Real Estate Commissioner, made and filed the Statement of Issues in his official capacity and not otherwise.
2. On or about March 30, 2001, respondent applied to the Department of Real Estate ("Department") for licensure as a real estate salesperson.

3. On August 5, 1999, respondent was convicted in the Superior Court, County of Lake, on his plea of guilty, of violation of Penal Code section 459 (burglary), a felony and crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was sentenced to 3 years summary probation, 365 days in jail (320 suspended), fines, restitution, and other terms and conditions.

The facts and circumstances were that respondent and some friends broke into a school the July after high school graduation. Respondent was intoxicated when he and the others crawled through a window and raided the refrigerator in the home economics classroom. In addition, they took some mail from a post office box and burned it.

4. Following his arrest, conviction, and jail time, respondent decided he had made some bad choices and wanted to redirect his energies. He has since been a student at Butte College and plans to attend California State University, Chico. He has assisted his father, a realtor, with his work (taking pictures, setting signs, etc.), and has done volunteer work at a facility for Alzheimer's patients. There, he has worked about 6 hours a week helping out, reading stories, and playing his saxophone.

Respondent is 20 years old with no other criminal record. He seems to have learned from the events of the summer of 1999.

5. Respondent has not yet completed all courses required by Business and Professions Code section 10153.4

LEGAL CONCLUSIONS

1. Grounds for denial of respondent's application exist pursuant to Business and Professions Code sections 480(a), conviction of a crime and 10177(b), conviction of a crime, by reason of Finding 3.

2. Although respondent is still on probation for his offense, he has shown substantial rehabilitation through his work, education, and volunteer efforts. He is a proper candidate for a restricted conditional license.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. 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 three years has elapsed from the date of issuance of the restricted license to respondent.

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

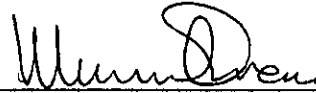
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting of the suspension.

5. Pursuant to Section 10154, if respondent has not satisfied the requirements for an unqualified license under Section 10153.4, respondent shall not be entitled to renew the

restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

DATED: December 28, 2001



MURIEL EVENS
Administrative Law Judge
Office of Administrative Hearings

FILED
OCT 11 2001

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

DEPARTMENT OF REAL ESTATE

By: Kathleen Contreras

In the Matter of the Application of

JESSE BURL CHRISP,

Case No. H-3613 SAC

OAH No. N-2001100091

Respondent

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, 560 J Street,

Suites 340/360, Sacramento, California 95814

on November 28, 2001, at the hour of 9:00 AM, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

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 and pay for 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: October 10, 2001

By: Larry Alamao
LARRY A. ALAMAO Counsel

1 LARRY A. ALAMAO, Counsel
State Bar No. 47379
2 Department of Real Estate
P. O. Box 187000
3 Sacramento, CA 95818-7000
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FILED
SEP 20 2001

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 JESSE BURL CHRISP,) NO. H-3613 SAC
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for Statement
18 of Issues against JESSE BURL CHRISP (hereinafter Respondent),
19 alleges as follows:

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about March 3, 2001, with the knowledge and
24 understanding that any license issued as a result of said
25 application would be subject to the conditions of Section 10153.4
26 of the Business and Professions Code.

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II

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

III

On or about August 5, 1999, in the Superior Court, Lake County, Respondent was convicted of violation of Section 459 of the California Penal Code (Burglary), 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, 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 salesperson license to Respondent, 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 17th day of September, 2001.