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MAY 23 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

KAO SENG SAELEE,

Respondent.

No. H-4123 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 8, 2005, in Case No. H-4123 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective March 29, 2005, 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 May 18, 2005, and Respondent has operated as a restricted licensee since that time.

On June 17, 2009, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition 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 twelve (12) months from the date of this
4 order:

5 1. Submittal of a completed application and payment of the fee for a real
6 estate salesperson license.

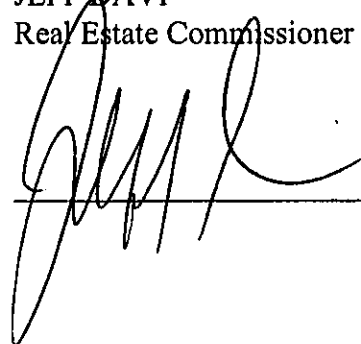
7 2. Submittal of proof that you have, within the 12-month period preceding
8 the submittal of an application for an unrestricted license, completed the continuing education
9 courses required for renewal of a real estate license.

10 This Order shall become effective immediately.

11 DATED: 5/18/2010

12 JEFF DAVI
13 Real Estate Commissioner

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FILED
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By K. Contreras

* * *

In the Matter of the Accusation of)
KAO SENG SAELEE,)
Respondent.)

NO. H-4123 SAC

OAH NO. N-2004110112

DECISION

The Proposed Decision dated February 18, 2005, 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 29, 2005.

IT IS SO ORDERED 28-05, 2005.

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KAO SENG SAELEE,

Respondent.

Case No. H-4123 SAC

OAH No. N2004110112

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on February 11, 2005.

Deidre L. Johnson, Staff Counsel, Department of Real Estate, State of California, represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, State of California.

Kao Seng Saelee (respondent) appeared and represented himself.

Evidence was received and the matter submitted on February 11, 2005.

FACTUAL FINDINGS

1. On September 13, 2004, complainant Charles W. Koenig, Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Accusation in his official capacity.

2. Since May 2002, respondent has been licensed and/or has licensing rights under the Real Estate Law¹ as a real estate salesperson (No. 01338098).

3. On February 27, 2004, in the Superior Court of California, County of Shasta, respondent, then 36, was convicted of a violation of Penal Code section 273, subdivision (d) (corporal injury to child), a misdemeanor and a crime substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was placed on probation for three years

¹ Part 1 of Division 4 of the Business and Professions Code.

and ordered, inter alia, to perform 35 days community service, neither annoy nor harass his daughter, and complete a parenting class.

4. The facts and circumstances of the offense stem from respondent's increasing inability, in 2003, to dissuade his 13-year-old daughter from sneaking out at night, returning inebriated, and ignoring other parental-imposed limitations. Over the 2003 Labor Day weekend and without parental permission or awareness, his daughter left the home. When his daughter returned late in the evening four days later, respondent confronted her and struck her repeatedly about the face, thighs and torso. Respondent indicated that he had previously warned his daughter that he would hit her if she continued her misconduct. Upon the daughter's return to school, a friend noticed some of the injuries and reported her observations to a teacher. Shasta County Child Protective Services (CPS) removed the child from the home, a child abuse complaint was filed with the Shasta County District Attorney, and respondent pled nolo contendere as noted in Factual Finding 3.

5. Respondent, 38, readily acknowledged his singular conviction and underlying conduct. While apologetic, respondent, a former City of Oakland police officer, repeatedly stated that his conduct was motivated by parental concern for his daughter's safety and well-being. He states that his repeated striking of his daughter that included tying her hands, never posed a threat to her. His daughter, now 16, testified that throughout 2003 she engaged in conduct that disregarded parental limitations. She, along with her father, competently and candidly testified that since the unfortunate incident, which resulted in her removal from the home by CPS, the court intervention, and ensuing family counseling, their relationship has improved.

Circumstances in Aggravation

6. Respondent remains on probation to the Superior Court. Although he has met various terms and conditions of his probation, he is still participating in parental counseling/anger management.

Circumstances in Mitigation

7. Respondent, but for the instant conviction, has no other criminal record.

8. Respondent is married and participates in many church activities. He has a bachelor's degree in computer science, and is pursuing religious studies courses at Simpson College.

9. Respondent possesses the clear and abiding support of his wife and daughter. The family underwent significant stress; however, court and professional therapeutic intervention have provided both insight and relief to the family and its members.

Respondent has the support of his broker. Apprised of the events, his broker testified that respondent possesses a strong work ethic and has proven to be an integral part of the office.

10. Respondent seeks to retain his license to maintain his livelihood.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend the real estate salesperson license of respondent for a criminal conviction substantially related to the qualifications, functions or duties of a Department licensee pursuant to the provisions of Business and Professions Code sections 490, and 10177, subdivision (b), and as set forth in Findings 2 through 5, inclusive.

2. A fundamental objective of the Department is to protect the public, the licensed profession, maintain integrity, high standards, and preserve public confidence in the Department's licensure process.²

Respondent's conviction and the underlying circumstances clearly demonstrated conduct lacking in guile. In balancing the evidence proffered, it is clear that respondent has presented mitigation worthy of salutary consideration. Nevertheless, respondent's recent licensure and recent conviction, coupled with his ongoing probation to the Superior Court, compel further Department scrutiny. Accordingly, mindful of the conduct underlying the Accusation (Legal Conclusion 1) and the circumstances in aggravation (Finding 6) and mitigation (Findings 7 through 11); the public interest will not be adversely affected by the continued issuance of a properly conditioned real estate salesperson's license to respondent.

ORDER

All licenses and licensing rights of respondent Kao Seng Saelee (No. 01338098) under the Real Estate Law are revoked; provided, however, a restricted real estate license shall be issued to him pursuant to Business and Professions Code section 10156.5 if respondent makes application therefore 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 respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 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 prior to hearing in the event of:

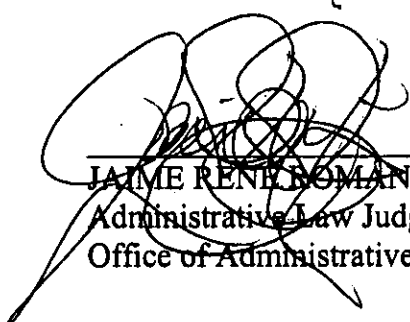
² *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

- (a) The conviction of respondent (including a plea of nolo contendere or admission or determination of a violation of court probation) 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 four years have elapsed from the date of issuance of the restricted license or effective date of this Decision, whichever is later.
- 3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by any 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 granted respondent a restricted license; and
 - (b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee for which a license is required.
 - (c) That the employing broker will exercise close supervision over the performance of the restricted licensee relating to activities for which a real estate license is required.
- 4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner 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.
- 5. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If

respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

6. Respondent shall provide a true copy of the Decision to the Chief Executive Officer at every Board of Realtors where privileges or membership are extended to him, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Commissioner or his/her designee within 15 calendar days of the effective date of this Decision.
7. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in respondent's custody and control and periodic summaries of salient information concerning each real estate transaction in which he engaged during the period covered by the report.

Dated: 2/18/05


JAIIME RENE ROMAN
Administrative Law Judge
Office of Administrative Hearings

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FEB 22 2005
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DEC - 9 2004

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

KAO SENG SAELEE,

} Case No. H-4123 SAC

} OAH No. N-2004110112

Respondent

**FIRST CONTINUED
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

**OFFICE OF ADMINISTRATIVE HEARINGS
560 J STREET, SUITES 340/360
SACRAMENTO, CA 95814**

on **FEBRUARY 11, 2005**, at the hour of **1:00 PM**, 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: December 3, 2004

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

KAO SENG SAELEE,

Case No. H-4123 SAC

OAH No. N-2004110112

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

560 J STREET, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **JANUARY 31, 2005**, at the hour of **9:00 AM**, 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.

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DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 8, 2004

By

Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
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DEPARTMENT OF REAL ESTATE

By Kathleen Contess

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

11 * * *

12 In the Matter of the Accusation of) NO. H-4123 SAC
13 KAO SENG SAELEE,) ACCUSATION
14 Respondent.)

15
16 The Complainant, CHARLES W. KOENIG, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against KAO SENG SAELEE (hereinafter "Respondent"),
19 is informed and alleges as follows:

20 I

21 The Complainant, CHARLES W. KOENIG, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 Respondent is presently licensed and/or has license
26 rights under the Real Estate Law (Part 1 of Division 4 of the
27 Business and Professions Code) (Code) as a real estate salesperson.

