

FILED

JAN 18 2008

DEPARTMENT OF REAL ESTATE

By Jean Armit

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of) No. H-4134 SAC
RUSSELL TODD SHAFTER,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On February 2, 2005, a Decision was rendered herein denying Respondent's application for a real estate broker license, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 6, 2005 and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On March 9, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license.

I have considered Respondent's Petition and the evidence submitted in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to
2 my satisfaction that Respondent meets the requirements of law for
3 the issuance to Respondent of an unrestricted real estate broker
4 license and that it would not be against the public interest to
5 issue said license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 Petition for removal of restrictions is granted and that a real
8 estate broker license be issued to Respondent if, within nine (9)
9 months from the date of this order, Respondent shall:

10 (a) Submit a completed application and pay the
11 appropriate fee for a real estate broker license, and

12 (b) Submit evidence of having taken and successfully
13 completed the continuing education requirements of Article 2.5 of
14 Chapter 3 of the Real Estate Law for renewal of a real estate
15 license.

16 This Order shall become effective immediately.

17 IT IS SO ORDERED 1-8-08.

18 JEFF DAVIS
19 Real Estate Commissioner
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 28 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. B.

In the Matter of the Application of

RUSSELL TODD SHAFTER,

Case No. H-4134 SAC

OAH No. N-2004120421

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, SUITE 340/360, SACRAMENTO, CA 95814** on **WEDNESDAY, JANUARY 26, 2005**, at the hour of **9:00 A.M.**, 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 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 28, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel (L2)

DEPARTMENT OF REAL ESTATE
By X. Zin

* * *

RUSSELL TODD SHAFTER

1 on this Statement of Issues for the purpose of requiring further
2 proof of Respondent's honesty and truthfulness and to prove other
3 allegations therein, or that he may in his discretion waive the
4 hearing and grant Respondent a restricted real estate broker
5 license based upon this Stipulation and Waiver. Respondent also
6 understands that by filing the Statement of Issues in this matter
7 the Real Estate Commissioner is shifting the burden to Respondent
8 to make a satisfactory showing that Respondent meets all the
9 requirements for issuance of a real estate broker license.
10 Respondent further understands that by entering into this
11 stipulation and waiver, Respondent will be stipulating that the
12 Real Estate Commissioner has found that Respondent has failed
13 to make such a showing, thereby justifying the denial of the
14 issuance to Respondent of an unrestricted real estate broker
15 license.
16

17 B. Respondent is aware that by signing this
18 Stipulation and Waiver, Respondent is waiving Respondent's right
19 to a hearing and the opportunity to present evidence at the
20 hearing to establish Respondent's rehabilitation in order to
21 obtain an unrestricted real estate broker license if this
22 Stipulation and Waiver is accepted by the Real Estate
23 Commissioner. However, Respondent is not waiving Respondent's
24 right to a hearing and to further proceedings to obtain a
25 restricted or unrestricted license if this Stipulation and Waiver
26 is not accepted by the Commissioner.
27

1 C. Respondent further understands that the following
2 conditions, limitations, and restrictions will attach to a
3 restricted license issued by the Department of Real Estate
4 pursuant hereto:

5 1. The license shall not confer any property right in
6 the privileges to be exercised including the right of renewal,
7 and the Real Estate Commissioner may by appropriate order suspend
8 the right to exercise any privileges granted under this
9 restricted license in the event of:

10 a. The conviction of Respondent (including a plea of
11 nolo contendere) to a crime which bears a substantial
12 relationship to Respondent's fitness or capacity as a real estate
13 licensee; or

14 b. The receipt of evidence that Respondent has
15 violated provisions of the California Real Estate Law, the
16 Subdivided Lands Law, Regulations of the Real Estate
17 Commissioner, or conditions attaching to this restricted license.

18 2. Respondent shall not be eligible to apply for the
19 issuance of an unrestricted real estate license nor the removal
20 of any of the conditions, limitations or restrictions attaching
21 to the restricted license until two years have elapsed from the
22 date of issuance of the restricted license to Respondent.

23 3. During the first year of the restricted license
24 issued pursuant to this Stipulation and Waiver, Respondent shall
25 enroll in and attend a substance abuse program that is
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27

1 appropriate to determine whether Respondent has a substance abuse
2 problem and to address that problem. Respondent shall attend such
3 substance abuse program on at least a weekly basis unless such
4 attendance in any week was not possible due to the illness of
5 Respondent or a member of Respondent's family or due to extreme
6 personal hardship for Respondent. The Commissioner may, in the
7 Commissioner's discretion, deny any application by Respondent for
8 the issuance of an unrestricted real estate license or for the
9 removal of any of the conditions, limitations or restrictions of
10 a restricted license, unless, with such application, Respondent
11 provides proof acceptable to the Real Estate Commissioner that
12 Respondent has complied with this condition.

13 Jan 13, 2005
14 DATED

15 JAMES L. BEAVER
16 DEPARTMENT OF REAL ESTATE

17 * * *

18 I have read the Stipulation and Waiver and discussed
19 it with my attorney and its terms are understood by me and are
20 agreeable and acceptable to me. I understand that I am waiving
21 rights given to me by the California Administrative Procedure
22 Act (including but not limited to Sections 11506, 11508, 11509,
23 and 11513 of the Government Code), and I willingly,
24 intelligently, and voluntarily waive those rights, including
25 the right of a hearing on the Statement of Issues at which I
26 would have the right to cross-examine witnesses against me and
27 to present evidence in defense and mitigation of the charges.

01/07/2005 12:42

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NO.439 006

01/07/2005 11:25

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ED GONZALEZ

PAGE 05


01/08/2005 18:14 FAX 9182279458

DRE LEGAL/RECOVERY

008/008

1/7/05
DATED
RUSSELL TODD SHAFER
Respondent

I have reviewed the Stipulation and Waiver as to form and content and have advised my client accordingly.

1-7-05
DATED
EDGARDO GONZALEZ
Attorney for Respondent

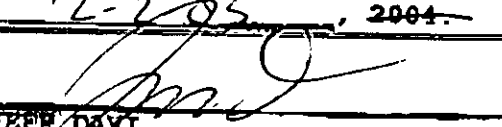
* * *

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate broker license to Respondent.

Therefore, IT IS HEREBY ORDERED that a restricted real estate broker license be issued to Respondent RUSSELL TODD SHAFER, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED 2-2-05, 2004.


JEFF DAVI
Real Estate Commissioner

DRE No. H-4134 SAC

- 3 -

RUSSELL TODD SHAFER

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

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

FILED
OCT 18 2004

DEPARTMENT OF REAL ESTATE

By Amir Q. Zia

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)

) No. H-4134 SAC

11 RUSSELL TODD SHAFTER,)

) STATEMENT OF ISSUES

12 Respondent.)

13
14 The Complainant, Charles W. Koenig, a Deputy Real
15 Estate Commissioner of the State of California, for Statement of
16 Issues against RUSSELL TODD SHAFTER (hereinafter "Respondent"),
17 alleges as follows:

18 I

19 Complainant, Charles W. Koenig, a Deputy Real Estate
20 Commissioner of the State of California, makes this Statement of
21 Issues in his official capacity.

22 II

23 On or about May 28, 2004, Respondent made application
24 to the Department of Real Estate of the State of California for
25 a real estate broker license.

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1 III

2 On or about August 30, 1995, in the Justice Court of
3 the State of Utah, County of Davis, Respondent was convicted of
4 the crime of Driving Under The Influence, a misdemeanor and a
5 crime involving moral turpitude which bears a substantial
6 relationship under Section 2910, Title 10, California Code of
7 Regulations (herein "the Regulations"), to the qualifications,
8 functions or duties of a real estate licensee.

9 IV

10 On or about April 17, 2002, in the Superior Court of
11 the State of California, County of Sacramento, Respondent was
12 convicted of the crime of Driving Under The Influence With One
13 Prior in violation of Vehicle Code Section 23152(a), a
14 misdemeanor and a crime involving moral turpitude which bears a
15 substantial relationship under Section 2910 of the Regulations
16 to the qualifications, functions or duties of a real estate
17 licensee.

18 V

19 Respondent's criminal convictions, as described in
20 Paragraphs III and IV, above, individually and jointly
21 constitute cause for denial of Respondent's application for a
22 real estate license under Sections 480(a) and 10177(b) of the
23 California Business and Professions Code.

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1 WHEREFORE, Complainant prays that the above-entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of a real estate broker
5 license to Respondent, and for such other and further relief as
6 may be proper in the premises.

7
8 
9 CHARLES W. KOENIG
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 12th day of October, 2004.