

FILED

AUG 06 2007

DEPARTMENT OF REAL ESTATE

By S. Fej

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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|------------------------------------|---|----------------|
| In the Matter of the Accusation of |) | |
| |) | |
| MICHELE A. PARRY, |) | No. H-4557 SAC |
| |) | |
| Respondent. |) | |

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On October 11, 2006, an Accusation was filed in this matter against Respondent MICHELE A. PARRY.

On June 21, 2007, Respondent petitioned the Commissioner to voluntarily surrender her real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent MICHELE A. PARRY's petition for voluntary surrender of her real estate salesperson license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated June 21, 2007, (attached as Exhibit "A" hereto). Respondent's license

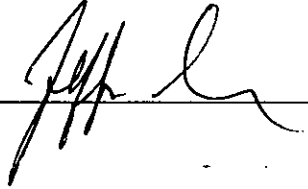
1 certificate and pocket card shall be sent to the below listed
2 address so that they reach the Department on or before the
3 effective date of this Order:

4 DEPARTMENT OF REAL ESTATE
5 Attn: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock noon
9 on AUG 28, 2007.

10 DATED: 7-26, 2007.

11 JEFF DAVI
12 Real Estate Commissioner

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1 Declaration: ACCUSATION Filed - Broker, Broker Officer or
Salesperson
2 Revised 2/12/07
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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-4557 SAC
13 MICHELE A. PARRY,)
14 Respondent.)
15)

16 DECLARATION

17
18 My name is MICHELE A. PARRY, and I am currently
19 licensed as a real estate salesperson and/or have license rights
20 with respect to said license. I am represented by MARK PRUNER,
21 Attorney at Law.

22 In lieu of proceeding in this matter in accordance with
23 the provisions of the Administrative Procedure Act (Sections
24 11400 et seq., of the Business and Professions Code), I wish to
25 voluntarily surrender my real estate license(s) issued by the
26 Department of Real Estate ("Department"), pursuant to Business
27 and Professions Code Section 10100.2.



1 I understand that by so voluntarily surrendering my
2 license(s), I may be relicensed as a broker or as a salesperson
3 only by petitioning for reinstatement pursuant to Section 11522
4 of the Government Code. I also understand that by so
5 voluntarily surrendering my license(s), I agree to the
6 following:

7 1. The filing of this Declaration shall be deemed as
8 my petition for voluntary surrender.

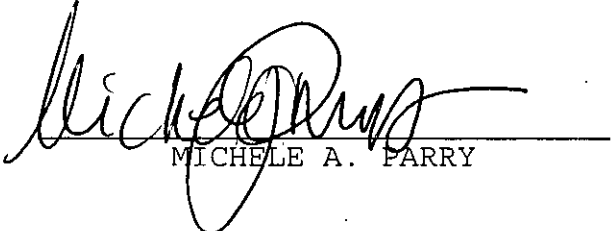
9 2. It shall also be deemed to be an understanding
10 and agreement by me that I waive all rights I have to require
11 the Commissioner to prove the allegations contained in the
12 Accusation filed in this matter at a hearing held in accordance
13 with the provisions of the Administrative Procedure Act
14 (Government Code Sections 11400 et seq.), and that I also waive
15 other rights afforded to me in connection with the hearing such
16 as the right to discovery, the right to present evidence in
17 defense of the allegations in the Accusation and the right to
18 cross-examine witnesses.

19 3. I further agree that upon acceptance by the
20 Commissioner, as evidenced by an appropriate order, all
21 affidavits and all relevant evidence obtained by the Department
22 in this matter prior to the Commissioner's acceptance, and all
23 allegations contained in the Accusation filed in the Department
24 Case No. H-4557 SAC, may be considered by the Department to be
25 true and correct for the purpose of deciding whether to grant
26 relicensure or reinstatement pursuant to Government Code Section
27 11522.

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4. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed June 21 2007, at Sacramento, California.


MICHELE A. FARRY

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
OCT 11 2006

DEPARTMENT OF REAL ESTATE

By S. Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MICHELE A. PARRY,) NO. H-4557 SAC
13 Respondent.) ACCUSATION
14)

15 The Complainant, CHARLES W. KOENIG, a Deputy Real
16 Estate Commissioner of the State of California, for causes of
17 Accusation against MICHELE A. PARRY, is informed and alleges as
18 follows:

19 FIRST CAUSE OF ACCUSATION

20 I

21 The Complainant, CHARLES W. KOENIG, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation against Respondent in his official capacity and not
24 otherwise.

25 II

26 Respondent MICHELE A. PARRY (hereafter "Respondent")
27 is presently licensed and/or has license rights under the Real

1 Estate Law, Part 1 of Division 4 of the California Business and
2 Professions Code (hereafter "the Code").

3 III

4 At all times herein mentioned, Respondent was licensed
5 by the Department of Real Estate (hereafter "Department") as a
6 real estate salesperson.

7 IV

8 At all times herein mentioned, MICHAEL DRAKE HOLDINGS,
9 INC., doing business under the fictitious name of DRAKE
10 MORTGAGE, was and is licensed by the Department as a corporate
11 real estate broker.

12 V

13 At all times herein mentioned, MICHAEL DAVIS SHEROUSE
14 was and is licensed by the Department as an individual real
15 estate broker and as the designated broker/officer of Respondent
16 CORPORATION.

17 VI

18 At all times herein mentioned, Respondent, as a
19 licensed real estate salesperson, was acting in the employ of
20 MICHAEL DRAKE HOLDINGS, INC. (hereafter "Employing Broker").

21 VII

22 At all times herein mentioned, Respondent, as a
23 licensed real estate salesperson, was acting under the
24 supervision of MICHAEL DAVIS SHEROUSE (hereafter "Supervising
25 Broker/Officer").

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1 VIII

2 Within the three year period next preceding to the
3 filing of this Accusation and at all times herein mentioned,
4 Respondent engaged in the business of, acted in the capacity of,
5 advertised, or assumed to act as a real estate broker within the
6 State of California within the meaning of Sections 10131(a) and
7 10132 of the Code, including the operation and conduct of a real
8 estate resale brokerage with the public wherein, on behalf of
9 others, for compensation or in expectation of compensation,
10 Respondent sold or offered to sell, bought or offered to buy,
11 solicited prospective sellers or purchases of, solicited or
12 obtained listings of, and/or negotiated the purchase or sale of
13 real property.

14 IX

15 Within the three year period next preceding to the
16 filing of this Accusation, in the course of the activities
17 described in Paragraph VIII herein above, Respondent sold or
18 offered to sell, solicited prospective purchasers of, solicited
19 or obtained listings of, and/or negotiated the purchase or sale
20 of real property for or in expectation of compensation,
21 including, but not limited to, that certain real property
22 commonly identified as 7332 West Lane, Granite Bay, Placer
23 County, California (hereafter "Subject Property").

24 X

25 Within the three year period next preceding to the
26 filing of this Accusation, in or about December 2003, in order
27 to induce ROBERT McCALLISTER and SARAH McCALLISTER (hereafter

1 "the Buyers") to complete the purchase of the Subject Property,
2 pursuant to the request of the Buyers to have wall and ceiling
3 samples tested to determine if the Subject Property contained
4 hazardous materials, Respondent represented to the Buyers that:
5 1.) she had taken the Buyers' wall and ceiling samples to a
6 laboratory for testing; 2.) she had obtained the test results;
7 and, 3.) that the test results were negative for hazardous
8 materials, including asbestos.

9 XI

10 Within the three year period next preceding to the
11 filing of this Accusation, in reliance upon the representations
12 of Respondent as described above, the Buyers closed escrow for
13 and purchased the Subject Property.

14 XII

15 Respondent's representations described in Paragraph X,
16 above, were false or misleading and were known by Respondent to
17 be false or misleading when made or were made by Respondent with
18 no reasonable grounds for believing said representations to be
19 true. In truth and in fact: 1.) Respondent failed to take the
20 wall and ceiling samples to a laboratory for testing; 2.) no
21 laboratory test had been performed; there was no laboratory
22 report; and, 3.) the Subject Property did in fact contain a
23 hazardous material, to wit, asbestos.

24 XIII

25 Respondent failed to disclose to the Buyers the true
26 facts that: 1.) she had failed to take the wall and ceiling
27

1 samples to a laboratory for hazardous materials testing; 2.)
2 there was no test report; and, 3.) that the Respondent did not
3 know whether the samples contained hazardous materials.

4 XIV

5 The facts alleged above are grounds for the suspension
6 or revocation of the license of Respondent under Sections
7 10176(a), 10176(b), 10176(i), 10177(g), and/or 10177(j) of the
8 Code.

9 SECOND CAUSE OF ACCUSATION

10 XV

11 There is hereby incorporated in this Second, separate
12 and distinct, Cause of Accusation, all of the allegations
13 contained in Paragraphs I through XIV, inclusive, of the First
14 Cause of Accusation with the same force and effect as if herein
15 fully set forth.

16 XVI

17 Within the three year period next preceding to the
18 filing of this Accusation, in or about May 2004, the Buyers
19 informed the Employing Broker, by and through the Supervising
20 Broker/Officer, that during remodeling they discovered that
21 asbestos was in fact present in Subject Property. The Buyers
22 thereupon demanded a copy of the laboratory test report.

23 XVII

24 Within the three year period next preceding to the
25 filing of this Accusation, in or about May 2004, the Supervising
26 Broker/Officer directed Respondent to produce the laboratory
27 test report. Respondent provided to the Supervising

1 Broker/Officer a hazardous materials report purportedly issued
2 by Haztech Systems, Inc. The hazardous materials report did not
3 include the name of the laboratory where the testing had been
4 conducted. In or about May 2004, the Supervising Broker/Officer
5 directed Respondent to provide the name of the laboratory that
6 performed the sample testing. Respondent provided a receipt
7 from National Analytical Laboratories, Inc. that contained an
8 illegible date.

9 XVIII

10 Respondent's representations and actions as described
11 in Paragraph XVII, above, were false or misleading and were
12 known by Respondent to be false or misleading when made or done
13 or were made or done by Respondent with no reasonable grounds
14 for believing said representations to be true. In truth and in
15 fact the test report and laboratory documents provided by
16 Respondent to the Supervising Broker/Officer were false, forged,
17 and/or otherwise did not reflect any actual testing of the
18 samples the Buyers provided to Respondent.

19 XIX

20 Respondent failed to disclose to the Buyers and to the
21 Employing Broker, by and through the Supervising Broker/Officer,
22 the true facts that: 1.) she had failed to take the wall and
23 ceiling samples to a laboratory for hazardous materials testing;
24 2.) there was no test report; 3.) that the Respondent did not
25 know whether the samples contained hazardous materials; and, 4.)
26 that the test report and laboratory documents that Respondent

27 ///

1 provided were false, forged, and/or did not reflect any actual
2 testing of the samples Respondent received from the Buyers.

3 XX

4 The facts alleged above are grounds for the suspension
5 or revocation of the license of Respondent under Sections
6 10176(a), 10176(b), 10176(i), 10177(c), 10177(g), and/or
7 10177(j) of the Code.

8 THIRD CAUSE OF ACCUSATION

9 XXI

10 There is hereby incorporated in this Third, separate
11 and distinct, Cause of Accusation, all of the allegations
12 contained in Paragraphs I through XX, inclusive, of the First
13 and Second Causes of Accusation with the same force and effect
14 as if herein fully set forth.

15 XXII

16 Within the three year period next preceding to the
17 filing of this Accusation, on or about June 18, 2004, the
18 Employing Broker, by and through the Supervising Broker/Officer,
19 filed a Licensee/Subdivider Complaint with the Department of
20 Real Estate regarding Respondent's misrepresentations and
21 failures to disclose as set forth herein above. The Department
22 conducted an investigation by and through its Deputy
23 Commissioner MARK TUTERA (hereafter "Deputy Commissioner
24 TUTERA").

25 XXIII

26 Within the three year period next preceding to the
27 filing of this Accusation, in response to Deputy Commissioner

1 TUTERA's request for Respondent's version of the facts and a
2 copy of all transactional documents for the Subject Property,
3 Respondent, on or about December 12, 2005, provided: 1.) a
4 written chronological statement of transactional facts, in which
5 Respondent stated that she took the Buyer's samples to a
6 laboratory for testing in December 2003 and that she told the
7 Buyer in January 2004 that the test results showed less than one
8 percent chrysotile asbestos content in the sample; and, 2.)
9 copies of transactional documents including a copy of a receipt
10 from Precision Micro-Analysis, a copy of a bulk sample analysis
11 report from Precision Micro-Analysis, and a copy of the
12 hazardous materials report purportedly issued by Haztech
13 Systems, Inc.

14 XXIV

15 Respondent's representations and actions as described
16 in Paragraph XXIII were false or misleading and were known by
17 Respondent to be false or misleading when made or done or were
18 made or done by Respondent with no reasonable grounds for
19 believing said representations to be true. In truth and in
20 fact: 1.) Respondent's statements that she had taken the Buyers'
21 samples to a laboratory for testing were false and untrue; and,
22 2.) the test report and laboratory documents provided by
23 Respondent to the Deputy Commissioner TUTERA were false, forged,
24 and/or otherwise did not reflect any actual testing of the
25 samples the Buyers provided to Respondent.

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XXV

Respondent failed to disclose to Deputy Commissioner TUTERA the true facts that: 1.) she had failed to take the wall and ceiling samples to a laboratory for hazardous materials testing; 2.) there was no test report; 3.) the Respondent did not know whether the samples contained hazardous materials; and, 4.) that the test report and laboratory documents that Respondent provided were false, forged, and/or did not reflect any actual testing of the samples Respondent received from the Buyers.

XXVI

The facts alleged above are grounds for the suspension or revocation of the license of Respondent under Sections 10177(c), and/or 10177(j) of the Code.

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 Respondents 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 29th day of September, 2006.