

FILED

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

APR 17 2008

DEPARTMENT OF REAL ESTATE

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In the Matter of the Application of )  
COREY R. COPELAND, )  
Respondent. )

NO. H-4894 SAC  
OAH NO. N-2007120622

DECISION

The Proposed Decision dated March 4, 2008, 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 with the following exception:

Conditions "5" and "6" of the Order of the Proposed Decision is not adopted and shall not be part of the Decision.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon  
on **MAY - 8 2008**.

IT IS SO ORDERED

4-16-08

JEFF DAVI  
Real Estate Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

COREY COPELAND,

Respondent.

Case No. H 4894 SAC

OAH No. N2007120622

**PROPOSED DECISION**

Gary A. Geren, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on February 15, 2008, in Sacramento, California.

David B. Seals, Staff Counsel, Department of Real Estate (Department), represented complainant.

Scott G. Lyon, Attorney at Law, represented Corey Copeland, respondent.

The matter was submitted on February 15, 2008.

**FACTUAL FINDINGS**

1. Complainant, Charles W. Koenig, Deputy Real Estate Commissioner, State of California, made the Statement of Issues, while acting in his official capacity.
2. On or about August 27, 2007, respondent applied to the Department for the issuance of a real estate salesperson's license.
3. The Department denied respondent's application because of his criminal convictions.

*Respondent's convictions*

4. On February 9, 1995, in the Superior Court of California, County of Sacramento, respondent was convicted of violating vehicle code section 23103, "wet reckless," a misdemeanor.

Respondent was ordered to pay fines and fees. Respondent was sentenced to serve seven days in the County jail, however, the jail sentence was stayed and respondent was placed on informal probation for three years.

The facts and circumstances giving rise to respondent's conviction were as follows: On September 24, 1994, respondent had been attending a bachelor party with several of his friends. After visiting several drinking establishments, respondent was leaving a bar when his vehicle was pulled over by police officer, after respondent made illegal U-turn. The officer noted that respondent had been drinking, and arrested him. Respondent was given a blood alcohol content (BAC) test, which showed he had a BAC of .09 percent; a BAC of .08 percent is the legal limit.

5. On December 21, 2005, in the Superior Court of California, County of Sacramento, respondent was convicted of violating Penal Code section 273.5, subdivision (a), infliction of corporal injury on a cohabitant, a misdemeanor.

Respondent was ordered to pay fines and fees. He served one day in jail. Respondent was ordered to participate in a batterer's treatment program and was placed on formal probation for three years.

The facts and circumstances giving rise to respondent's conviction were as follows: On October 14, 2005, respondent was involved in a domestic violence incident with Shawna Henderson. The two were not married, but had two children in common, and lived in the same home. The two shared a "rocky" relationship. On this particular night, respondent had returned home from work and was drinking beer while watching a basketball game on the television. After the game, respondent reviewed Ms. Henderson's cell phone messages. Respondent saw a text message from "another guy," which discussed a rendezvous with Ms. Henderson. When Ms. Henderson attempted to get the cell phone back from respondent, a physical altercation ensued. During the altercation Ms. Henderson hit respondent, and respondent slapped her, ultimately taking her to the ground and sitting on her chest while restraining her arms with his knees. Respondent allowed Ms. Henderson to escape. She called her mother, who in turn, called the police department. Neither party required medical attention as a result of their altercation.

### *Rehabilitation*

6. Although separated, respondent and Ms. Henderson are now "good friends." Ms. Henderson testified to respondent's general good character, testifying that the domestic violence incident was an aberration. Respondent and Ms. Henderson share the custody of their children. Ms. Henderson stated that respondent is a very good provider to her and her children.

Respondent completed the terms of his probation without any violations. As part of respondent's sentencing, he completed the batterers' program and credits the program with providing him "better communication skills."

Respondent attained Eagle Scout. Respondent graduated in 1994 from San Francisco State University where he obtained a Business Management degree. He has enjoyed steady employment since his graduation, and is presently employed as a loan originator. Jake DaRosa, a mortgage broker, wrote a letter of recommendation in support of respondent's attempt to gain his salesperson's license. Mr. DaRosa states:

If Corey receives a restricted license, I will supervise and help him learn the entire process of a real estate and financial transaction. I highly recommend Corey Copeland for the salesperson real estate license and hope that you will carefully consider his application.

Respondent submitted a report from the County of Sacramento Probation Department. The report states:

4-19-06: Client participates openly. He uses group to problem solve the real dilemmas in his life. 7-11-06: [Client] is doing well. He appears to have integrated program teachings and objectives. He also reports to have resolved the relationship with the victim. 8-30-06: [Client] participates well in program exercises in classroom discussions. He has utilized the group to accomplish problem-solving, perspective and discernment in major life decisions. This appears to have helped him resolve family relations. 12-5-06: Client has resolved many primary issues of his relationship with his family, spouse and children. The solution appears to be working well for client and family according to self-report. 3-17-07: Client has completed 52 week program.

On August 10, 2007, the Superior Court of California, County of Sacramento, issued a "Dismissal Order Pursuant to 1203.4 PC." By said Order, respondent's conviction was set aside and the accusatory pleading was dismissed.

Respondent owns rental properties in Elk Grove and Crescent City, California, as well as Arizona. He is current on paying his debts and his child support.

Respondent "occasionally" drinks alcohol.

Respondent is remorseful for engaging in the conduct that led to both of his convictions. Based on the record in this matter, it appears respondent has, as he put it, "learned his lesson."

### LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be denied to an applicant who has been convicted of a felony or a crime involving moral turpitude. "'Moral turpitude' means a general 'readiness to do evil' ...i.e., 'an act of baseness, vileness or depravity in the private and social duties which a

man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.” (*People v. Mansfield* (1988) 200 Cal.App.3d.82, 87, citations omitted.)

*Moral turpitude and respondent’s non-felony convictions*

2. Respondent’s conviction for battery on a cohabitant is a crime involving moral turpitude. *People v. Williams* (1999) 72 Cal.App. 4th 1460, 1462-1465. A single conviction for a “wet reckless” is not.

*Substantial relationship*

3. California Code of Regulations, title 10, section 2910, subdivision (a), sets forth criteria for determining whether a criminal conviction is substantially related to the qualifications, functions or duties of a real estate licensee<sup>1</sup>. Pursuant to subdivision (a)(8),

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<sup>1</sup> California Code of Regulations, title 10, section 2910 states:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

- (1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.
- (2) Counterfeiting, forging or altering on of an instrument or the uttering of a false statement.
- (3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state or local government.
- (4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.
- (5) Sexually related conduct affecting a person who is an observer or non- consenting participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code.
- (6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.
- (7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.
- (8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.
- (9) Contempt of court or willful failure to comply with a court order.

doing unlawful act with the intent to do substantial injury, constitutes a substantial relationship between respondent's conviction and the qualifications, functions and duties of a real estate salesperson.

### *Causes for denial*

4. Cause exists to deny respondent's license, as set forth at Factual Finding 5 and Legal Conclusions 1 through 3.

### *Rehabilitation*

5. When legal cause exists for the Department to deny an applicant a license, the applicant may produce evidence of rehabilitation to establish that a license should nevertheless be issued.

6. Rehabilitation is a "state of mind" and the law looks with favor upon one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058). Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940).

7. The Department has enacted a non-exhaustive list of rehabilitation criteria at California Code of Regulations, title 10, section 2911, against which to weigh and evaluate an applicant's evidence of rehabilitation.<sup>2</sup>

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(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

(11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

(b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.

(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or act were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.

<sup>2</sup> California Code of Regulations, title 10, section 2911 states:

The following criteria have been developed by the department pursuant to section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct

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substantially related to the qualifications, functions or duties of a licensee of the department.)

- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.
- (c) Expungement of criminal convictions resulting from immoral or antisocial acts.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.
- (n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:
  - (1) Testimony of applicant.
  - (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.
  - (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

8. With these factors in mind, respondent established that it would not be contrary to public safety for the Department to issue him a restricted license. (Factual Finding 6 and Legal Conclusions 5 through 7.)

### ORDER

1. Respondent's application for a real estate salesperson license is denied. 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 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:

2. 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.

3. 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 two (2) years have elapsed from the date of issuance of the restricted license to respondent.

4. 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

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(4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.



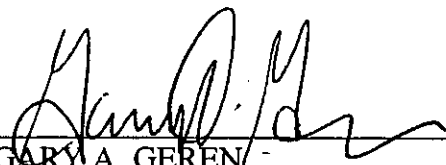
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

5. 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 a course in real estate practices and one 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.

6. 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 (4) years after the date of the issuance of the preceding restricted license.

DATED: March 4, 2008

  
GARY A. GEREN  
Administrative Law Judge  
Office of Administrative Hearings

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4 Sacramento, CA 95818-7007

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DEPARTMENT OF REAL ESTATE

By H. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Application of )  
12 COREY R. COPELAND, )  
13 Respondent. )

No. H-4894 SAC

STATEMENT OF ISSUES

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

19 I

20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about August 27, 2007.

23 II

24 Complainant, Charles W. Koenig, a Deputy Real Estate  
25 Commissioner of the State of California, makes this Statement of  
26 Issues in his official capacity.

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1 III

2 On or about February 9, 1995 in the Superior Court of  
3 California, County of Sacramento, Respondent was convicted of  
4 violation of California Vehicle Code Section 23103 (Wet  
5 Reckless), a misdemeanor and a crime involving moral turpitude  
6 which bears a substantial relationship under Section 2910, Title  
7 10, California Code of Regulations (hereinafter the  
8 "Regulations"), to the qualifications, functions or duties of a  
9 real estate licensee.

10 IV

11 On or about December 21, 2005 in the Superior Court of  
12 California, County of Sacramento, Respondent was convicted of  
13 violation of California Penal Code Section 273.5(a) (Inflict  
14 Corporal Injury on Current or Former Spouse or Cohabitant), a  
15 misdemeanor and a crime involving moral turpitude which bears a  
16 substantial relationship under Section 2910 of the Regulations  
17 to the qualifications, functions or duties of a real estate  
18 licensee.

19 V

20 The crimes, of which Respondent was convicted, as  
21 alleged in Paragraphs III and IV above, constitute cause for  
22 denial of Respondent's application for a real estate license  
23 under Section 10177(b), in conjunction with Section 480 of the  
24 California Business and Professions Code.

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

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8   
9 CHARLES W. KOENIG  
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,  
11 this 20<sup>th</sup> day of November ~~December~~, 2007.