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FILED

DEC 22 2009

DEPARTMENT OF REAL ESTATE

By L. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
MARCUS HAMILTON PERRY,
Respondent.

No. H-6011 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 12, 1987, in Case No. H-5716 SF, a Decision was rendered revoking the real estate broker license of Respondent effective February 4, 1987, but granting Respondent the right to issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 23, 1987. On July 19, 1988, in Case No. H-6011 SF, a Decision was rendered revoking the restricted real estate broker license of Respondent effective September 12, 1988. On July 18, 2002, Respondent petitioned for reinstatement of said real estate broker license. On May 5, 2003, an order was entered herein denying Respondent's petition for reinstatement of Respondent's 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 not issued to Respondent. On May 24, 2004, Respondent again petitioned for reinstatement of said real estate broker license. On April 12, 2005, an order was entered herein denying Respondent's petition for reinstatement of Respondent's real estate broker license, but

1 granting Respondent the right to issuance of a restricted real estate broker license. A restricted
2 real estate broker license was issued to Respondent on January 17, 2006, and Respondent has
3 operated as a restricted licensee since that time.

4 On February 1, 2008, Respondent petitioned once again for reinstatement of said
5 real estate broker license, and the Attorney General of the State of California has been given
6 notice of the filing of the petition.

7 I have considered Respondent's petition and the evidence and arguments in
8 support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the
9 requirements of law for the issuance to Respondent of an unrestricted real estate broker license
10 and that it would not be against the public interest to issue said license to Respondent.

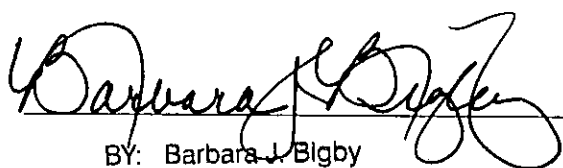
11 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
12 reinstatement is granted and that a real estate broker license be issued to Respondent if
13 Respondent satisfies the following conditions within twelve (12) months from the date of this
14 order:

- 15 1. Submittal of a completed application and payment of the fee for a real
16 estate broker license.
- 17 2. Submittal of evidence of having, since the most recent issuance of an
18 original or renewal real estate license, taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
20 license.

21 This Order shall become effective immediately.

22 DATED: 1/13/09

23 JEFF DAVI
24 Real Estate Commissioner

25 
26 BY: Barbara J. Bigby
27 Chief Deputy Commissioner

FILED

APR 14 2005

DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MARCUS HAMILTON PERRY,

Respondent.

No. H-5716 SF

H-6011 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 12, 1987, in Case No. H-5716 SF, a Decision was rendered revoking the real estate broker license of Respondent, 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 23, 1987. On July 19, 1988, in Case No. H-6011 SF, a Decision was rendered revoking the restricted real estate broker license of Respondent.

On May 24, 2004, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has failed
3 to demonstrate to my satisfaction that Respondent has undergone
4 sufficient rehabilitation to warrant the reinstatement of
5 Respondent's unrestricted real estate broker license.

6 The burden of proving rehabilitation rests with the
7 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
8 petitioner is required to show greater proof of honesty and
9 integrity than an applicant for first time licensure. The proof
10 must be sufficient to overcome the prior adverse judgment on the
11 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
12 395).

13 The Decision in this matter found that Respondent, as
14 the officer designated by a corporate broker licensee, had failed
15 to exercise reasonable supervision over the activities of the
16 corporation for which a real estate license is required,
17 including the employment of an unlicensed person to perform acts
18 for which a real estate license is required.

19 Given the violations found and the fact that Respondent
20 has not engaged as a broker in the operation of a real estate
21 brokerage business or otherwise acted in a fiduciary capacity,
22 Respondent has not established that he has complied with Section
23 2911 (k), Title 10, California Code of Regulations.

24 Consequently, I am not satisfied that Respondent is sufficiently
25 rehabilitated to receive an unrestricted real estate broker
26 license. Additional time and evidence of correction as a

27 ///

1 restricted real estate broker is necessary to establish that
2 Respondent is rehabilitated.

3 I am satisfied, therefore, that it will not be against
4 the public interest to issue a restricted real estate broker
5 license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement of his real estate broker license is
8 denied.

9 A restricted real estate broker license shall be issued
10 to Respondent pursuant to Section 10156.5 of the Business and
11 Professions Code, if Respondent satisfies the following
12 conditions prior to and as a condition of obtaining a restricted
13 real estate broker license within nine (9) months from the date
14 of this Order:

15 1. Respondent shall take and pass the real estate
16 broker license examination.

17 2. Submittal of a completed application and payment of
18 the fee for a real estate broker license.

19 3. Submittal of evidence of having, since the most
20 recent issuance of an original or renewal real estate license,
21 taken and successfully completed the continuing education
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
23 for renewal of a real estate license.

24 The restricted license issued to Respondent shall be
25 subject to all of the provisions of Section 10156.7 of the
26 Business and Professions Code and to the following limitations,

27 ///

1 conditions and restrictions imposed under authority of Section
2 10156.6 of that Code:

3 A. The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which is substantially related to
7 Respondent's fitness or capacity as a real estate licensee.

8 B. The restricted license issued to Respondent may be
9 suspended prior to hearing by Order of the Real Estate
10 Commissioner on evidence satisfactory to the Commissioner that
11 Respondent has violated provisions of the California Real Estate
12 Law, the Subdivided Lands Law, Regulations of the Real Estate
13 Commissioner or conditions attaching to the restricted license.

14 C. Respondent shall not be eligible to apply for the
15 issuance of an unrestricted real estate license nor the removal
16 of any of the limitations, conditions or restrictions of a
17 restricted license until two (2) years have elapsed from the date
18 of the issuance of the restricted license to respondent.

19 This Order shall become effective at 12 o'clock
20 noon on MAY 05 2005, 2005.

21 Dated: 4-12, 2005.

22 JEFF DAVI
23 Real Estate Commissioner
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FILED

MAY 3 1 2003

DEPARTMENT OF REAL ESTATE

By Jean Alameda

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MARCUS HAMILTON PERRY,) NO. H-5716 SF
Respondent.) NO. H-6011 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 12, 1987, in Case No. H-5716 SF, a Decision was rendered revoking the real estate broker license of Respondent, 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 23, 1987. On July 19, 1988, in Case No. H-6011 SF, a Decision was rendered revoking the restricted real estate broker license of Respondent.

On July 18, 2002, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has failed
3 to demonstrate to my satisfaction that Respondent has undergone
4 sufficient rehabilitation to warrant the reinstatement of
5 Respondent's unrestricted real estate broker license.

6 The Decision in this matter found that Respondent,
7 as the officer designated by a corporate broker licensee, had
8 failed to exercise reasonable supervision over the activities
9 of the corporation for which a real estate license is required,
10 including the employment of an unlicensed person to perform acts
11 for which a real estate license is required.

12 Given the violations found and the fact that Respondent
13 has not engaged as a broker in the operation of a real estate
14 brokerage business or otherwise acted in a fiduciary capacity,
15 Respondent has not established that he has complied with Section
16 2911 (k), Title 10, California Code of Regulations. Consequently,
17 I am not satisfied that Respondent is sufficiently rehabilitated
18 to receive an unrestricted real estate broker license.
19 Additional time and evidence of correction as a restricted real
20 estate broker is necessary to establish that Respondent is
21 rehabilitated.

22 I am satisfied, therefore, that it will not be against
23 the public interest to issue a restricted real estate broker
24 license to Respondent.

25 NOW, THEREFORE, IT IS ORDERED that Respondent's
26 petition for reinstatement of his real estate broker license is
27 denied.

1 A restricted real estate broker license shall be issued
2 to Respondent pursuant to Section 10156.5 of the Business and
3 Professions Code, if Respondent satisfies the following
4 conditions within nine (9) months from the date of this Order:

5 1. Respondent shall take and pass the real estate
6 broker license examination.

7 2. Submittal of a completed application and payment
8 of the fee for a real estate broker license.

9 3. Submittal of evidence of having, since the most
10 recent issuance of an original or renewal real estate license,
11 taken and successfully completed the continuing education
12 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
13 for renewal of a real estate license.

14 The restricted license issued to Respondent shall be
15 subject to all of the provisions of Section 10156.7 of the
16 Business and Professions Code and to the following limitations,
17 conditions, and restrictions imposed under authority of Section
18 10156.6 of that Code:

19 A. The restricted license issued to Respondent may be
20 suspended prior to hearing by Order of the Real Estate
21 Commissioner in the event of Respondent's conviction or plea of
22 nolo contendere to a crime which is substantially related to
23 Respondent's fitness or capacity as a real estate licensee.

24 B. The restricted license issued to Respondent may
25 be suspended prior to hearing by Order of the Real Estate
26 Commissioner on evidence satisfactory to the Commissioner that
27 Respondent has violated provisions of the California Real Estate

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 C. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor the removal
5 of any of the limitations, conditions, or restrictions of a
6 restricted license until two (2) years have elapsed from the
7 date of the issuance of the restricted license to Respondent.

8 This Order shall be effective immediately.

9 DATED: May 5, 2003.
10

11 PAULA REDDISH ZINNEBANN
12 Real Estate Commissioner
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Paula Reddish Zinnemann

COPY

FILED
AUG 22 1988

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

By: C. Westbrook
C. Westbrook

STATE OF CALIFORNIA

In the Matter of the Accusation of)
MARCUS HAMILTON PERRY,)
Respondent.)

No. H-6011 SF

DECISION

The Proposed Decision dated July 12, 1988 of Robert E. McCabe, Regional Manager, Department of Real Estate, State of California, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock noon
on September 12, 1988.

IT IS SO ORDERED July 19, 1988.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

1.

PROPOSED DECISION

John Van Driel, Counsel, represented the complainant.

The following decision is proposed, certified and recommended for adoption:

I

II

- 1 -

Estate of the State of California (the Department) as a real estate broker.

III

On or about February 25, 1987, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of January 12, 1987, in Case No. H-5716 SF.

IV

Included in said terms, conditions and restrictions was the following:

3. 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 imposed under authority of Section 10156.6 of the Code:

A.

B.

C. The restricted license may be suspended by Order of the Real Estate Commissioner pending a final determination after a hearing if the respondent, within nine (9) months from the effective date of the Decision fails to present evidence satisfactory to the Real Estate Commissioner that he 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 the respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

(excerpt from page 4 of Proposed Decision)

V

Respondent has failed to present evidence satisfactory to the Real estate Commissioner within the applicable time period that respondent has taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law.

VI

On June 21, 1988, Chief Deputy Commissioner John R. Liberator ordered the immediate suspension of the license issued to the respondent under the authority of Section 10156.7 of the Business and Professions Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code Section 10177(k).

II

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of respondent MARCUS HAMILTON PERRY under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

DATED: July 12, 1988.


Robert E. McCabe
Regional Manager
Department of Real Estate

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FILED
JUN 23 1988

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

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

In the Matter of the Accusation of)
MARCUS HAMILTON PERRY,)
Respondent.)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: MARCUS HAMILTON PERRY

On February 25, 1987, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of January 12, 1987, in case No. H-5716 SF. This Order granted the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code.

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/ / / / /

1 On May 27, 1988, in Case No. H-6011 SF, an
2 Accusation by a Deputy Real Estate Commissioner of the State of
3 California was filed charging respondent with violation of
4 Section 10177(k) of the Business and Professions Code of the
5 State of California.

6 NOW, THEREFORE, IT IS ORDERED under authority of
7 Section 10156.7 of the Business and Professions Code of the
8 State of California that the restricted real estate broker
9 license heretofore issued to respondent and the exercise of any
10 privileges thereunder is hereby suspended pending final
11 determination made after the hearing on the aforesaid
12 Accusation.

13 IT IS FURTHER ORDERED that all license certificates
14 and identification cards issued by the Department of Real Estate
15 which are in the possession of respondent be immediately
16 surrendered by personal delivery or by mailing in the enclosed
17 self-addressed envelope to:

18 DEPARTMENT OF REAL ESTATE
19 185 Berry Street, Room 5816
20 San Francisco, CA 94107-1770

21 This Order shall be effective immediately.

22 DATED: June 21, 1988

23 JAMES A. EDMONDS, JR.
24 Real Estate Commissioner

25 By: John R. Liberator
26 JOHN R. LIBERATOR
27 Chief Deputy Commissioner

COPY

DEPARTMENT OF REAL ESTATE
185 Berry Street, Room 5816
San Francisco, CA 94107-1770

(415) 557-3220

FILED
MAY 27 1988

DEPARTMENT OF REAL ESTATE

By C. Westbrook

C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
MARCUS HAMILTON PERRY,)
Respondent.)

No. H-6011 SF

ACCUSATION

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against MARCUS HAMILTON PERRY (hereinafter respondent) is informed and alleges as follows:

I

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter Code) as a real estate broker.

II

The Complainant, EDWARD V. CHIOLO, A Deputy Real Estate Commissioner of the State of California, makes this Accusation against respondent in his official capacity.

/ / / / /

On or about February 25, 1987, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of January 12, 1987, in Case No. H-5716 SF.

IV

Included in said terms, conditions and restrictions was the following:

3. 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 imposed under authority of Section 10156.6 of the Code:

A.

B.

C. The restricted license may be suspended by Order of the Real Estate Commissioner pending a final determination after a hearing if the respondent, within nine (9) months from the effective date of the Decision fails to present evidence satisfactory to the Real Estate Commissioner that he 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 the respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

(excerpt from page 4 of Proposed Decision)

/ / / / /

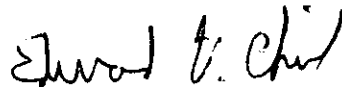
/ / / / /

Respondent has failed to present evidence satisfactory to the Real Estate Commissioner within the applicable time period that respondent has taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law.

VI

The facts alleged above are grounds for the suspension or revocation of respondent's restricted license under Section 10177(k) of the Business and Professions 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 respondent 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.



EDWARD V. CHIOLO
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 9th day of May, 1988.