

100

DEPARTMENT OF REAL ESTATE

By L. Montiel

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 THOMAS O. SCRIPPS, III,) No. H-6585 SF
13 Respondent.)
)

On June 18, 1992, a Decision was rendered herein
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 July 15, 1992, and Respondent has
operated as a restricted licensee without cause for disciplinary
action against Respondent since that time.

23 On February 20, 1996, Respondent petitioned for
24 reinstatement of said real estate broker license, and the Attorney
25 General of the State of California has been given notice of the
26 filing of said petition.

27 *///*

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for reinstatement is granted and that a real estate broker license
10 be issued to Respondent if Respondent satisfies the following
11 conditions within six months from the date of this Order:

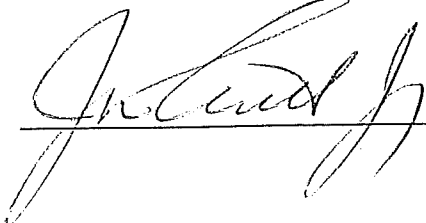
12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

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

19 This Order shall be effective immediately.

20 DATED: 7-11-96

21 JIM ANTT, JR.
22 Real Estate Commissioner

23 
24
25
26
27



COPY

FILED
JUN 25 1982

BEFORE THE DEPARTMENT OF REAL ESTATE

JUN 25 1992

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

By Maria Smith

In the Matter of the Accusation of

THOMAS O. SCRIPPS, III
aka THOMAS O. SCRIPPS,

Respondent.

No. H-6585 SF

0AH N-39737

DECISION

The Proposed Decision dated May 29, 1992 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 July 15, 1992.

IT IS SO ORDERED

CLARK WALLACE
Real Estate Commissioner

[Handwritten signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation
of:

THOMAS O. SCRIPPS, III
aka THOMAS O. SCRIPPS,

Respondent.

Case No.: H-6585 SF

OAH No.: N 39737

PROPOSED DECISION

This matter was heard before Jonathan Lew, Administrative Law Judge, State of California, Office of Administrative Hearings, on May 18, 1992, in San Francisco, California.

The Department of Real Estate was represented by David B. Seals, Counsel.

Respondent Thomas O. Scripps, III was present and represented by James Jay Seltzer, Esq., Watergate Towers, Tenth Floor, 2200 Powell Street, Emeryville, California 94608.

FINDINGS OF FACT

I

Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, made and issued the Accusation in his official capacity, and not otherwise.

II

Thomas O. Scripps, III, aka Thomas O. Scripps (Respondent) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate broker. His broker license is due to expire on July 19, 1993.

III

On October 24, 1990, in the Municipal Court of California, County of Napa, Respondent was convicted, upon his plea of Guilty, of violation of section 647.6 of the California Penal

Code (Annoying or Molesting Child). This is a crime involving moral turpitude and one that is substantially related under section 2910, Title 10, California Code of Regulations to the qualifications, functions and duties of a real estate licensee.

Respondent was placed on eight (8) years formal probation with the conditions that he serve thirty days in custody, pay a \$550.00 fine and additional restitution in an amount to be determined. It was also ordered that he commence and continue in counseling or other rehabilitation programs as prescribed by the Probation Officer, that he not annoy, harass, abuse, molest or contact the victim, that he remain away from all minor females unless in the presence of a responsible adult and that he register as a sex offender with the appropriate law enforcement agency, pursuant to section 290 et seq. of the California Penal Code.

IV

In June 1990, Respondent took his children and the twelve year old daughter of a friend to a home in Napa County for an overnight stay. During the evening he was awakened by his youngest child and went upstairs to check. He observed his friend's daughter at the time and, thinking that she was asleep, touched her breast in a circular motion for several seconds. He stopped on his own. The daughter of his friend left the next morning and Respondent's actions were reported to the police.

Respondent admits to the incident and acknowledges the wrongfulness and seriousness of the crime for which he was convicted. He has been seen weekly by psychologist Victor P. Bonfilio, Ph.D. since March 8, 1991, and has also attended group therapy sessions for sex offenders led by Eugene A. Merlin, M.A., MFCC since May 15, 1991. They both declined to testify, citing possible adverse effects to the therapeutic relationship with Respondent.

V

Respondent was evaluated on April 20, 1992, by Nancy Van Couvering, Ph.D., who administered a personal history questionnaire, Rorschach Inkblots (Comprehensive System) and Minnesota Multiphasic Personality Inventory - 2 (MMPI-2). Respondent's standardized test scores placed him in the category of situational child molest offenders. These individuals typically act incident to a drastic change or "dreadful loss" in their lives. They are distinguishable from predatory offenders who exhibit little or no remorse for their victims, and from preferential offenders (e.g. pedophiles) who are especially attracted to children. Non-incarcerated situational offenders have a relatively low incidence (31 percent) of re-offending in the absence of any treatment. With treatment, the recidivism essentially drops to zero.

Respondent's Rorschach results indicate that he has sufficient voluntary emotional control, and feelings of both empathy and guilt to suggest that he is an excellent candidate for psychotherapy. He tolerates stress, acknowledges his problem and is motivated to change. Dr. Van Couvering opines that he is unlikely to pose a risk, and that if he continues in treatment, his risk of re-offending is about as low as can be measured. She concludes that he is "an appropriate candidate for psychotherapeutic intervention, and that there was a good prognosis for improvement, on the strict condition that he continues to participate in his therapy."

VI

Respondent was also evaluated by psychiatrist Lawrence McReynolds, M.D. He saw Respondent on six occasions through May 13, 1992, relating to his fitness to practice as a real estate broker. He characterized Respondent as a situational offender, pointing to precipitant stressors such as Respondent's financial losses accompanying the crash of the real estate market, and the breakup of his marriage of fifteen years. He describes Respondent as a "beaten man" getting himself back on his feet with psychotherapy. Dr. McReynolds perceives the child molest incident as an anomaly which is quite unlikely to recur. He recommends an additional two years of treatment and adult supervision when he is in the presence of female minors. He concludes that there "appears little likelihood of a repeat occurrence of his offense and certainly no apparent reason for him not to continue in his line of work on a probationary basis."

Respondent avers that his understanding of himself and the factors that lead to his criminal offense is evolving. He recognizes his need to deal with situations where he is relatively powerless - eg. business downturns, marital dissolution - in a more realistic manner. His business is currently stable, and he has since remarried. He is also learning to discipline both his actions and his thoughts to avoid any circumstances where he would be left alone with female minors. This he views as for the protection of third parties and himself. Respondent has minor daughters and continues to relate regularly and honestly with them since the incident. They also undergo psychotherapy to help them understand what Respondent did. Respondent pays \$2,400.00 each month for six hours of therapy per week, and for school and monthly expenses for his children. He also pays child support for one child. As part of the Court ordered restitution, Respondent continues to pay for all psychotherapy expenses incurred by the victim.

VII

Respondent was first licensed as a real estate broker in 1981. He has a bachelor's degree in business management and an MBA in finance. He is the owner of Canyon Pacific Company, a commercial property management firm. His company employs three other individuals and manages close to 300,000 square feet of

commercial property. He does not deal in the management or sale of residential property, and agrees to the restricting of his licensed practice to commercial real estate.

Respondent has complied with all the terms and conditions of his court ordered probation. He has exhibited empathy and a degree of understanding of the trauma he has caused his victim, and has expressed genuine remorse for his actions. Experts in psychology and psychiatry are uniform in their opinion that the possibility of recidivism is practically zero if Respondent continues in therapy; and that he poses essentially no risk to the public if he were to continue on a probationary basis as a real estate broker.

Any restricted license issued to Respondent should include conditions that his real estate practice be restricted to commercial real estate, that he have no unsupervised contact with minor females, that he continue in psychotherapy for a minimum of two years and that his real estate license be automatically revoked, without hearing, if he violates terms of his court ordered probation. Given these additional terms and conditions, it would not be contrary to the public interest to issue Respondent a restricted license at this time.

DETERMINATION OF ISSUES

I

Cause for suspension or revocation of all licenses and license rights of Respondent exists under sections 490 and 10177(b) of the California Business and Professions Code, by reason of the matters set forth in Finding III.

II

The matters set forth in Findings V, VI and VII were considered in making the following Order.

ORDER

I

All licenses and licensing rights of Respondent Thomas O. Scripps, III under the Real Estate Law are revoked pursuant to Determination I.

II

However, a restricted real estate broker license shall be issued to Respondent pursuant to section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the

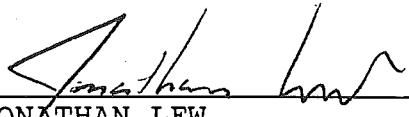
effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until five (5) years have elapsed from the effective date of this Decision.
4. Respondent shall, within six (6) 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's individual broker's license shall be restricted to the practice of commercial real estate. He shall not personally engage in the showing, sale, management, transfer or other type of transaction involving residential real property as a part of his licensed practice. Nothing in this paragraph serves as a bar to other members within his brokerage listing residential property, and Respondent may continue to receive referral

fees from brokerage staff engaged in the listing of residential real property.

6. Respondent shall not have any unsupervised contact with minor females during the course and scope of his employment and work as a real estate broker.
7. Respondent shall continue in psychotherapy for a minimum two (2) years from the effective date of this decision. To assist the Department in monitoring compliance with this condition, Respondent shall provide regular reports in the format requested by personnel designated by the Department, detailing the course and progress of his therapy.
8. If Respondent violates any of the terms of his criminal probation (NMC No. 9002061-01), the Commissioner may revoke Respondent's restricted license, without the need for further hearing.

DATED: May 29, 1992



JONATHAN LEW
Administrative Law Judge

JL:wc

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
4 San Francisco, California 94107-1770

5 (415) 904-5917



By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 THOMAS O. SCRIPPS, III)
13 aka THOMAS O. SCRIPPS,)
14 Respondent.)

NO. H-6585 SF

ACCUSATION

15 The Complainant, EDWARD V. CHIOLO, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against THOMAS O. SCRIPPS, III aka THOMAS O. SCRIPPS
18 (hereinafter Respondent), is informed and alleges as follows:

19 I

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

24 II

25 The Complainant, EDWARD V. CHIOLO, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity and not

1 otherwise.

2 III

3 On or about February 1, 1991, in the Municipal Court
4 of California, County of Napa, Respondent was convicted of
5 violation of Section 647.6 of the California Penal Code
6 (Annoying or Molesting Child), a crime involving moral turpitude
7 which is substantially related under Section 2910, Title 10,
8 California Code of Regulations to the qualifications, functions
9 or duties of a real estate licensee.

10 IV

11 The facts alleged above constitute cause under
12 Sections 490 and 10177(b) of the Code for suspension or
13 revocation of all licenses and license rights of Respondent
14 under the Real Estate Law.

15 WHEREFORE, Complainant prays that a hearing be
16 conducted on the allegations of this Accusation and that upon
17 proof thereof, a decision be rendered imposing disciplinary
18 action against all licenses and license rights of Respondent
19 under the Real Estate Law (Part 1 of Division 4 of the Business
20 and Professions Code), and for such other and further relief as
21 may be proper under other provisions of law.

22
23 *Edward V. Chio*

24 EDWARD V. CHIOLO
25 Deputy Real Estate Commissioner

26 Dated at San Francisco, California

27 this 18th day of October, 1991.