

FLAG

FILED

DEC 02 2008

DEPARTMENT OF REAL ESTATE

By *D. Frost*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of
DANIEL DAVID KNEISLER,
Respondent.

No. H-6889 SF

ORDER GRANTING UNRESTRICTED LICENSE

On August 2, 1993, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on September 28, 1993, and Respondent has operated as a restricted licensee since that time.

On June 30, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent if, within
3 nine (9) months from the date of this order, Respondent shall:

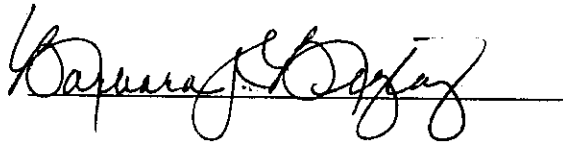
4 (a) Submit a completed application and pay the appropriate fee for a real
5 estate salesperson license, and

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

9 This Order shall become effective immediately.

10 IT IS SO ORDERED 11-21-08
11

12 JEFF DAVI
13 Real Estate Commissioner

14 
15

16
17
18 BY: Barbara J. Bigby
19 Chief Deputy Commissioner
20
21
22
23
24
25
26
27

COPY

FILED
AUG 18 1993

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Lynda Montiel
Lynda Montiel

* * *

In the Matter of the Application of)
DANIEL DAVID KNEISLER,)
Respondent.)

No. H-6889 SF

OAH N 43096

DECISION

The Proposed Decision dated July 20, 1993, 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 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 again be made for an unrestricted license. Petition for removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for 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 attached hereto.

This Decision shall become effective at 12 o'clock noon on September 7th, 1993.

IT IS SO ORDERED August 2, 1993.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application)	
of)	
DANIEL DAVID KNEISLER,)	Case No. H-6889 SF
Respondent.)	OAH No. N 43096
_____)	

PROPOSED DECISION

This matter was heard before Robert R. Coffman, Administrative Law Judge, Office of Administrative Hearings, on July 2, 1993 in San Francisco, California.

Larry Alamao, Counsel, represented the Department of Real Estate.

Respondent Daniel David Kneisler was present and represented himself.

FINDINGS OF FACT

I

Edward V. Chiolo made the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner Department of Real Estate, State of California.

II

Respondent, pursuant to the provisions of section 10153.3 of the Business and Professions Code (Code), made application to the Department for a real estate salesperson license on or about August 21, 1992, with the knowledge and understanding that any license issued as a result of his application would be subject to the conditions of section 10153.4 of the Code.

III

On or about August 6, 1985, in the Municipal Court, Monterey County, State of California, respondent was convicted

of a violation of section 4463(a)(1) of the Vehicle Code (Alteration of Certificate of Ownership), a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

IV

On or about December 9, 1986, in the Superior Court, Santa Clara County, State of California, respondent was convicted of violation of section 496 of the Penal Code (Receiving Stolen Property), a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

V

On the section 4463 conviction respondent was sentenced to two years probation on conditions, including 75 hours of community service work.

On the section 496 conviction respondent in January 1987 was sentenced to three years probation on conditions, including four months in the county jail. In May 1987 probation was revoked and in August 1987 probation was reinstated on the same conditions except the jail term was increased to 5 months.

The circumstances surrounding the section 4463 conviction are that a friend gave him license plates for the vehicle he had purchased so he could obtain a smog check on the vehicle.

The circumstances surrounding the section 496 conviction are that an automobile he purchased from a private party in 1986 was a stolen vehicle.

VI

Respondent is 27 years old. He has operated his own carpet cleaning business in Union City the past four years. Respondent and his father also build and sell computer systems. He has been offered employment with a real estate broker in the East Bay. The broker is aware of his above convictions.

DETERMINATION OF ISSUES

Cause was established to deny respondent's application under sections 480(a) and 10177(b) of the Code.

The above offenses occurred in 1985 and 1986, eight and seven years ago, when respondent was 19 and 20 years old. He has demonstrated that he has been a law abiding individual the past seven years. He is leading a stable life and has gained the maturity and responsibility expected of a licensee. It would not be against the public interest to grant respondent a restricted license under conditions.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156 of the Business and Professions Code. The restricted license issued to the 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:

1. 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.
2. 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 one year has elapsed from the date of issuance of the restricted license to respondent.

3. 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 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
 - (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.
4. 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 two of the courses listed in section 10153.2, other than real estate principles, 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.
5. 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 years after the date of the issuance of the preceding restricted license.

DATED: July 20, 1993.



ROBERT R. COFFMAN
Administrative Law Judge
Office of Administrative Hearings

RRC:lhj

Long/SAC

COPY

FILED
MAY 14 1993

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

[Signature]

In the Matter of the Application of

DANIEL DAVID KNEISLER,

}

Case No. H-6889 SF

OAH No. N-43096

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 _____
OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,
455 Golden Gate Avenue, Room 2248, S.F., CA 94102

on July 2, 1993 (1 hr.), at the hour of 1:30 pm,
or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: May 14, 1993

By *[Signature]*
LARRY A. ALAMAO
Counsel

Maria Zulueta

II

Complainant, Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about August 6, 1985, in the Municipal Court, Monterey County, State of California, Respondent was convicted of a violation of Section 496 of the California Penal Code (Receiving Stolen Property), and of Section 4463(a)(1) of the California Vehicle Code (Alteration of Certificate of Ownership), crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

On or about December 9, 1986, in the Superior Court, Santa Clara County, State of California, Respondent was convicted of violation of Section 496 of the California Penal Code (Receiving Stolen Property), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

V

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

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

7 *Edward V. Chio*

8 EDWARD V. CHIOLO
9 Deputy Real Estate Commissioner

10 Dated at San Francisco, California

11 this 8th day of March, 1993.