

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
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FILED
FEB - 9 2006

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 *In the Matter of the Application of*

11 GERALD JOHNSTON ASKEW,
12 Respondent.

)
) No. H- 9379 SF
) OAH NO. N-2005120006

)
) **STIPULATION AND WAIVER**

13 _____)
14 It is hereby stipulated by and between GERALD JOHNSTON ASKEW, (hereinafter
15 "Respondent") and Respondent's attorney, Frank M. Buda, and the Complainant, acting by and through
16 Daniel E. Kehew, Counsel for the Department of Real Estate, as follows for the purpose of settling and
17 disposing of the Statement of Issues filed on October 3, 2005, in this matter:

18 Respondent acknowledges that Respondent has received and read the Statement of Issues
19 and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
20 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
21 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
22 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the
23 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
24 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
25 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets
26 all the requirements for issuance of a real estate salesperson license. Respondent further understands that by
27 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner

1 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
2 to Respondent of an unrestricted real estate salesperson license.

3 Respondent hereby admits that the allegations of the Statement of Issues filed against
4 Respondent are true and correct and requests that the Real Estate Commissioner in his discretion issue a
5 restricted real estate salesperson license to Respondent under the authority of Section 10156.5 of the
6 Business and Professions Code. Respondent understands that any such restricted license will be issued
7 subject to and be limited by Section 10153.4 of the Business and Professions Code.

8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving
9 Respondent's right to a hearing and the opportunity to present evidence at the hearing to establish
10 Respondent's rehabilitation in order to obtain an unrestricted real estate salesperson license if this
11 Stipulation and Waiver is accepted by the Real Estate Commissioner. However, Respondent is not waiving
12 Respondent's right to a hearing and to further proceedings to obtain a restricted or unrestricted license if
13 this Stipulation and Waiver is not accepted by the Commissioner.

14 Respondent further understands that the following conditions, limitations, and restrictions
15 will attach to a restricted license issued by the Department of Real Estate pursuant hereto:

- 16 1. The license shall not confer any property right in the privileges to be exercised
17 including the right of renewal, and the Real Estate Commissioner may by appropriate
18 order suspend the right to exercise any privileges granted under this restricted license
19 in the event of:
 - 20 a. The conviction of Respondent (including a plea of nolo contendere) to a crime
21 which bears a substantial relationship to Respondent's fitness or capacity as a
22 real estate licensee; or
 - 23 b. The receipt of evidence that Respondent has violated provisions of the California
24 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
25 Commissioner, or conditions attaching to this restricted license.
- 26 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate
27 license nor the removal of any of the conditions, limitations or restrictions attaching to

1 the restricted license until two years have elapsed from the date of issuance of the
2 restricted license to Respondent.

3 3. With the application for license, or with the application for transfer to a new
4 employing broker, Respondent shall submit a statement signed by the prospective
5 employing broker on a form approved by the Department of Real Estate wherein the
6 employing broker shall certify as follows:

7 a. That broker has read the Statement of Issues which is the basis for the issuance
8 of the restricted license; and

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

12 4. Respondent's restricted real estate salesperson license is issued subject to the
13 requirements of Section 10153.4 of the Business and Professions Code, to wit:
14 Respondent is required, within eighteen (18) months of the issuance of the restricted
15 license, to submit evidence satisfactory to the Commissioner of successful completion,
16 at an accredited institution, of a course in real estate practices and one of the courses
17 listed in Section 10153.2, other than real estate principles, advanced legal aspects of
18 real estate, advanced real estate finance, or advanced real estate appraisal. If
19 Respondent fails to timely present to the Department satisfactory evidence of
20 successful completion of the two required courses, the restricted license shall be
21 automatically suspended effective eighteen (18) months after the date of its issuance.
22 Said suspension shall not be lifted unless, prior to the expiration of the restricted
23 license, Respondent has submitted the required evidence of course completion and the
24 Commissioner has given written notice to Respondent of the lifting of the suspension.

25 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an
26 unqualified license under Section 10153.4, Respondent shall not be entitled to renew
27 the restricted license, and shall not be entitled to the issuance of another license which

1 is subject to Section 10153.4 until four years after the date of the issuance of the
2 preceding restricted license.

3
4 1/19/06
5 Dated

6
7 Daniel E. Kehew
8 DANIEL E. KEHEW, Counsel, Department of Real Estate

9 * * *

10 I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are
11 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
12 by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509,
13 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights,
14 including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine
15 witnesses against me and to present evidence in defense and mitigation of the charges.

16 Respondent can signify acceptance and approval of the terms and conditions of this
17 Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the
18 Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands that by
19 electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation
20 and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the
21 Department had received the original signed Stipulation and Waiver.

22 1/13/06
23 Dated

24 Gerald Johnston Askew
25 GERALD JOHNSTON ASKEW, Respondent

26 *I have reviewed the Stipulation and Waiver as to form and content and have advised my
27 client accordingly.*

28 1-10-06
29 Dated

30 Frank M. Buda
31 FRANK M. BUDA, Attorney for Respondent

32 * * *

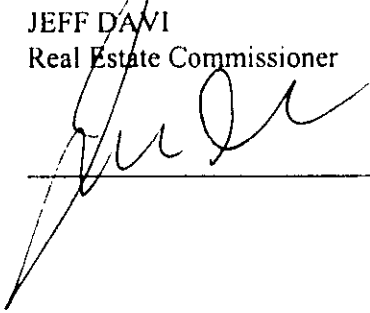
33 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver
34 signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the

1 honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public
2 interest to issue a restricted real estate salesperson license to Respondent.

3 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be
4 issued to Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure.
5 The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation
6 and Waiver.

7 This Order is effective immediately.

8 IT IS SO ORDERED 2-8-06
9 _____

10 JEFF DAVI
11 Real Estate Commissioner
12 
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1 DANIEL E. KEHEW, Counsel (SBN 231550)
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FILED
OCT - 3 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 GERALD JOHNSTON ASKEW,) NO. H-9379 SF
13 Respondent.) 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 GERALD JOHNSTON ASKEW (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 Complainant, CHARLES W. KOENIG, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

24 Respondent made application to the Department of Real
25 Estate of the State of California for a real estate salesperson
26 license on or about May 5, 2005, with the knowledge and
27 understanding that any license issued as a result of said

1 application would be subject to the conditions of Section 10153.4
2 of the Business and Professions Code (hereinafter "Code").

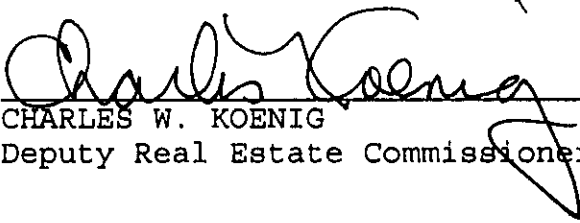
3 III

4 On or about October 14, 1999, in the Superior Court of
5 the State of California, County of San Joaquin, Respondent was
6 convicted of the crime of Burglary in violation of Penal Code
7 Section 459, a felony and crime involving moral turpitude that
8 bears a substantial relationship under Section 2910, Title 10,
9 California Code of Regulations (hereinafter "Regulations"), to
10 the qualifications, functions, or duties of a real estate licensee.

11 IV

12 The facts alleged above constitute cause for denial of
13 Respondent's application for a real estate license under Sections
14 480(a) and 10177(b) of the Code.

15 WHEREFORE, Complainant prays that the above-entitled
16 matter be set for hearing and, upon proof of the charges
17 contained herein, that the Commissioner refuse to authorize the
18 issuance of, and deny the issuance of a real estate salesperson
19 license to Respondent, and for such other and further
20 relief as may be proper under other provisions of law.

21
22
23 
24 CHARLES W. KOENIG
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California
27 this 28th day of September, 2005.