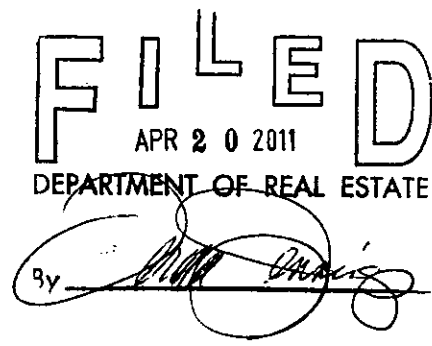


50470
1/24



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

KASEY DAVID STEWART,

Respondent.

No. H-9899 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 25, 2007, in Case No. H-9899 SF, a Decision was rendered revoking the real estate broker license of Respondent effective August 21, 2007.

On November 17, 2009, 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 the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker 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
2 reinstatement is granted and that a real estate broker license be issued to Respondent if
3 Respondent satisfies the following requirements:

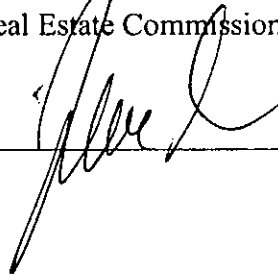
4 1. Submits a completed application and pays the fee for a real estate broker
5 license within the 12 month period following the date of this Order; and

6 2. Submits proof that Respondent has completed the continuing education
7 requirements for renewal of the license sought. The continuing education courses must be
8 completed either (i) within the 12 month period preceding the filing of the completed
9 application, or (ii) within the 12 month period following the date of this Order.

10 This Order shall become effective immediately.

11 DATED: 3/30/2011

12 JEFF DAVIS
13 Real Estate Commissioner

14 
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 01 2007

DEPARTMENT OF REAL ESTATE

By Anne Shawver

* * *

In the Matter of the Accusation of)
KASEY DAVID STEWART,)
Respondent.)

NO. H-9899 SF

OAH NO. N-2007040703

DECISION

The Proposed Decision dated July 2, 2007, 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 AUG 21 2007.

IT IS SO ORDERED

7-25-07
JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

KASEY DAVID STEWART,

Respondent.

Case No. H-9899 SF

OAH No. N2007040703

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 31, 2007.

David B. Seals, Counsel, represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, State of California.

Attorney Roger D. Wintle represented respondent Kasey David Stewart, who was present.

At hearing, complainant was permitted to amend paragraph IV of the accusation to correct a typographical error; the date "April 27, 2005" was amended to read "September 7, 2006." The matter was submitted on May 31, 2007.

FACTUAL FINDINGS

1. Complainant Charles W. Koenig, Deputy Real Estate Commissioner, issued the accusation in his official capacity.
2. Respondent Kasey David Stewart is licensed by the Department of Real Estate as a real estate broker.
3. On December 1, 2003, in the Superior Court of California, County of Marin, respondent was convicted, on his plea of guilty, of a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of 0.08 percent or more), a misdemeanor. Imposition of sentence was suspended and respondent was placed on court probation for three years on terms and conditions that included payment of fines and fees of \$1,500, completion of a first offender drinking driver program, submission to blood, breath or urine test if arrested for driving under the influence in the future, restriction of driving privileges for 90 days, and a prohibition against driving with any measurable amount of alcohol in the blood.

In the course of the proceedings in the Superior Court, respondent signed the court's guilty plea waiver form and specifically acknowledged that if he were to be sentenced with probation, the terms of probation would include a requirement that he not drive with any measurable amount of alcohol in his blood and a requirement that, if arrested for violation of Vehicle Code section 23152, he would not refuse to submit to a chemical test of his blood or breath.

Complainant alleged the above conviction as a matter in aggravation.

4. Respondent's offense occurred on July 13, 2003. Respondent had been drinking with some friends on Saturday night, July 12, 2003. At about 4:20 a.m., July 13, a California Highway Patrol officer observed respondent's vehicle traveling at a speed in excess of 78 miles per hour and weaving out of its lane on U.S. Highway 101 in San Rafael. The CHP officer initiated a traffic stop and administered field sobriety tests, which respondent failed. Respondent was placed under arrest and spent the night in jail. It was not shown that respondent's offense involved moral turpitude.

5. On April 27, 2005, in the Superior Court of California, County of Santa Clara, respondent was convicted, on his plea of guilty, of a violation of Penal Code section 647, subdivision (f) (disorderly conduct – public intoxication). Imposition of sentence was suspended and respondent was placed on court probation for two years under terms and conditions that included payment of fines and fees, and serving one day in jail with credit for one day served.

6. Respondent's offense occurred on March 13, 2005. He and a friend were drinking at a bar in Los Gatos. They were intoxicated, caused a disturbance, and were escorted out of the establishment by a bouncer. Shortly thereafter, Los Gatos police officers took respondent into custody for public intoxication. Respondent was on probation for his 2003 conviction at the time of this offense. It was not shown that respondent's offense involved moral turpitude or that it involved the operation of a motor vehicle.

7. On September 7, 2006, in the Superior Court of California, County of Santa Clara, respondent was convicted, on his plea of nolo contendere, of a violation of Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol or drugs), a misdemeanor. Imposition of sentence was suspended and respondent was placed on court probation for three years under terms and conditions that included payment of fines and fees of \$1,910, restriction of his driving privilege, and enrollment in an 18-month second offender program.

8. Respondent's offense occurred on February 19, 2006. He was on probation at the time of the offense. Respondent, his housemates, and some friends had been drinking. At 2:56 a.m., Campbell police officers responded to assist the Santa Clara County Fire Department regarding a reported motorcycle crash. The officers arrived at 1181 Cameo Drive, where respondent and his housemates lived. Respondent was bleeding from his right

ear. Officer Spear detected the odor of alcohol on respondent's breath and observed that respondent had red, watery eyes and slurred speech. Respondent refused to answer questions about his injuries. Respondent's friends reported to the police that respondent had been riding his motorcycle. A friend said that respondent had fallen off his motorcycle. Another, Calli Parent, reported that she heard respondent's motorcycle drive away, heard the engine somewhere in the neighborhood north of the house, and heard the motorcycle engine stop and after a short while start again. Parent reported that she saw respondent driving the motorcycle back to the garage and that respondent was bleeding from his chin and ear. None of respondent's friends were witnesses at the hearing in this matter. Their hearsay statements to the police did not establish that respondent had ridden his motorcycle off the Cameo Drive property.

Officer Melcher of the Campbell Police Department reported locating "skid marks and scrap marks" consistent with a motorcycle crash one street north of respondent's house.

Respondent was taken to the hospital. Officer Wetzel of the Campbell Police Department spoke with respondent at the hospital; respondent told the officer that he was sitting on his motorcycle and that he had fallen in the driveway. Respondent refused to say if the motorcycle was running or if he had ridden the motorcycle. Respondent told the officer he had been drinking earlier but had not had anything to drink after he fell. Officer Wetzel smelled the odor of alcohol on respondent's breath. He noticed that respondent's eyes were bloodshot and watery and that respondent's speech was slurred. Respondent refused to blow into a "PAS" alcohol measurement device. Officer Wetzel placed respondent under arrest for drunk driving. Subsequently, respondent refused to give a blood sample, asserting that he had not been driving a vehicle.

In his conviction detail report to the department, respondent stated that he had been working on his dirt bike at his house. Respondent stated that while he was testing the bike in his front yard he slipped and fell. Respondent denied that he had been drinking and driving.

At hearing, respondent testified that he had been working on his dirt bike in his front yard. He denied that he had left the yard on his motorcycle. He asserted that statements of various witnesses in the police report were not true and that the witnesses were intoxicated and inaccurate in their statements.

9. Respondent has paid the fines and fees imposed as a result of his convictions. He is currently participating in the 18-month second offender program ordered after his second conviction. He remains on probation. He has not had subsequent arrests or convictions.

10. Respondent's 2003, 2005, and 2006 convictions involved alcohol abuse. Respondent acknowledges his drinking problem. He acknowledges that he abused alcohol while attending college. He notes that there is a history of alcohol abuse in his family.

There was no evidence that respondent drank during the work day. He has not been the subject of complaints or law suits regarding his work in real estate.

In his December 11, 2006 interview information statement to the department, respondent wrote:

I am completely regretful and ashamed that this is happening. I never want to put myself or my family in this position again. Since the second incident at question I have realized what I have to lose. Since then I have started my own company [and] devoted 100% of all my time to Real Estate and my clients. Drinking is no longer an option. Only bad outcomes stem from drinking. With so much on the line I choose not to drink. It has been 7 months, and with the help of my friends and family, and career I have been able to stay sober. Real Estate is my whole life, and I would love more than anything to practice it my whole working career.

11. Respondent received a bachelor's degree in economics from the California Polytechnic University (Cal Poly), San Luis Obispo, in 2002. He received his real estate salesperson license in 2003. That license was terminated on May 9, 2004, and respondent received his real estate broker license on May 10, 2004.

12. At the time of his February 19, 2006 offense respondent worked for Eagle Financial and Properties Group, a brokerage operated by the father of one of respondent's college friends. His friend and friend's brother also worked at the brokerage. In addition to working at the brokerage, respondent invested in and shared a house with the brothers. Life at the house was like living in a "frat house" and involved frequent alcohol consumption. The house, located at 1181 Cameo Drive, Campbell, was the location of respondent's February 19, 2006 offense.

13. After the February 19, 2006 incident, respondent realized he needed to change his ways because he had too much to lose. He decided to change his living and working conditions and to quit drinking. In April or May 2006, respondent moved out of the Cameo Drive house. He purchased the home he now shares with his fiancée. In October or November 2006, respondent informed his associates and former housemates at the Eagle Financial and Properties Group that he was leaving to start his own company. Respondent no longer associates with his former housemates. In November 2006, respondent started his own business, S & S Homes, with a partner, Andrew Soss.

14. Respondent is active in the Campbell Chamber of Commerce. He has made donations to police charities. Respondent has continued his professional education by taking courses for a Certified Residential Specialist designation.

15. Respondent decided to quit drinking alcohol. Respondent sought help from Jim Pickett, an appraiser respondent knew from the real estate business. Respondent was aware that Pickett also had an alcohol problem. Pickett introduced respondent to Alcoholics Anonymous and became respondent's sponsor. Respondent worked the AA 12 steps. He has a sobriety date of May 8, 2006. Respondent continues to attend AA meetings about twice per month and assists others with their alcohol abuse problems.

Pickett wrote a May 17, 2007 letter in support of respondent:

I have known Kasey Stewart from a business and personal standpoint since August 2003. I have found him to be extremely honest, ethical, knowledgeable, hardworking and intelligent. Kasey takes a great deal of personal pride in anything that he does. Since meeting him for the first time as a new agent in 2003, I have had the pleasure of watching him grow from new agent to successful real estate broker and entrepreneur. As far as I can see, he has accomplished this without compromising any of his good qualities, including his honesty and ethics. As far as I am concerned, I would be proud to work with him on a real estate transaction.

I was not aware of his problems that had developed with alcohol abuse. I have never seen him under the influence at any time. His problem is a common one with individuals that are high achievers. He most probably is a functional alcoholic; an individual that is successful during the day and seeks alcohol to relieve stress in the off hours. I began my road to alcoholism in the same manner until my drinking was out of control. Mr. Stewart was aware of my status and the fact that I no longer considered alcohol a part of my life.

In May 2006 Kasey contacted me regarding his latest incident, with his motorcycle on his property. He was concerned that he was moving in the same direction that I had been. He asked me if I would help him. I agreed to be his sponsor.

Since that time I have worked with him on the twelve steps of Alcoholics Anonymous. He recently completed his 12th Step. We have attended many meetings together in the Willow Glen, Campbell and Los Gatos areas of Santa Clara County. He is an active participant and shares his story with others. He realizes that his problem is very similar to those that have gone before him.

He committed to an alcohol free life on May 8, 2006. To the best of my knowledge he has been alcohol free in the twelve months since then. Kasey now gives back to AA what he has learned.

The others in AA and I that have shared experiences with him would be grateful if he were given an opportunity to continue with his career in Real Estate and prove himself. I know he will. We need more Real Estate Brokers of his caliber.

16. Respondent is engaged to Kimya Milaninia, who works in pharmaceutical sales. Milaninia is a source of strength and support for respondent. In contrast to his lifestyle at the Cameo Drive "frat house," respondent and Milaninia live a quiet, simple life together. Milaninia described respondent's growth and positive changes in her testimony at hearing and in a letter she wrote in his support:

When I met Kasey he worked for Eagle Financial and Properties Group as a Real Estate Agent. This company consisted of two brothers, one of which he met when he was in college, and their Father; it was basically a family owned company. He also invested in a house where he lived with the two brothers. Kasey worked extremely hard for the real estate company and was their top producer based on revenue and sales. During this time the two brothers that Kasey lived with were pretty rowdy and in my opinion enjoyed the night life a little too much. Kasey grew up in Redding, so he ended up spending a lot of time with them in and out of work, and it unfortunately leaded [sic] to him make a few mistakes that I know he was not proud of. After this time I personally witnessed the enormous change in Kasey's life. I think he had a huge wake up call. He didn't want his relationship around certain people [to] affect his other relationships with his family and friends or for it to affect his career.

Kasey soon moved out of his living situation with the two brothers and bought his own house. Even though a mortgage payment paid by him was going to be a huge risk financially he wanted to take himself out of a potentially worse situation, and I really supported and respected his decision. After a few months of being on his own he realized that his hard work and efforts could be channeled into his own business where he could make his own choices and be more responsible. Starting your own business is a risk for anyone to do, but Kasey knew that with his personal life-style change, work ethic and dedication he could

do it. So in November of 2006 Kasey and a partner started their own Real Estate Mortgage Company.

I felt that the changes and improvements that Kasey has made to his life and others around him only shows his true character, but also how hardworking, and dedicated Kasey really is. He had a few bumps in the road and made some bad choices, but I really don't know anyone who hasn't made at least a few mistakes in life. Kasey's turned his life around and shows how he is an amazing person. After his last DUI incidence in 2006 Kasey has stopped drinking, attended AA meetings on a regular basis, and has tirelessly devoted all his energy in his family, friends and most importantly in becoming a better person. He has an excellent relationship with his family and all his clients. Kasey has become an advocate to our all [sic] friends to help guide them in the right choices when they choose to go out and drink. He's been setting a great example for others not to make some of the same mistakes that he has made. He also shows that by making the right choices you can focus your energy into work and becoming more successful.

I am very proud to call Kasey my future husband and partner in life. The last 16 months have been very stressful for both of us and difficult emotionally but Kasey's focus to want to change has already shown great progress. Going through this time together has made our relationship grow and has opened up my eyes to the wonderful person that Kasey really is.

17. In 2003, respondent lived in San Diego for several months to care for his brother Kyle Stewart, who had sustained a neck injury that left him paralyzed as a quadriplegic. In a May 2, 2007 letter, Kyle Stewart described respondent's return to the Bay Area and respondent's problems while living at the Cameo Drive house:

During this time period was when Kasey was the most distant to our family. He never had time for anything but work and when he wasn't doing that the partying was easy because it was always in front of him. This time late 04 – 06 is when Kasey got into trouble. It was like it wasn't even the same kid. I had nothing in common with him anymore. He rarely saw us, his immediate family. Finally something gave and that was in the form of his incident with the law in early 2006. I believe it really opened his eyes to what was around him. His so called friends weren't there for him anymore[.] [H]e had a life changing problem like I did and he had a decision to make.

I believe that since that incident way before he thought he would get into trouble with the courts, DMV, and the DRE he made a change. Since then he is my brother again, he told the people that used him goodbye. He moved out of his living situation, left their company, and bought his own home. He is now engaged to a wonderful girl that has been there for him every step of the way. I cannot wait to call her my sister in law. Our family has never been happier and life is back on track the way it was before those 2 bad years. Kasey is once again an inspiration.

18. Rick Castello is a licensed real estate agent who works at respondent's brokerage. Castello testified and wrote a letter in support of respondent. Castello wrote:

Kasey and I have been friends since 2002. Over these five years, I have yet to see another Real Estate Broker that is as knowledgeable, honest, and fair as Kasey . . . which is why I jumped at the idea of working under him. [Ellipsis in original.]

Since I officially came aboard as one of Kasey's employees in late December 2006, my personal success has seen a dramatic increase – thanks to Kasey's guidance and advice.

With nearly nine years of Real Estate experience behind me, I can honestly say that I would not want to work for any other Real Estate Broker in the business. I will forever attest to Kasey Stewart's professionalism, passion, and knowledge of the Real Estate Business.

19. Respondent's partner, Andrew Soss, has been respondent's friend since they attended Cal Poly together. Soss wrote:

The changes in [respondent's] life since the [February 2006] incident are remarkable. He has discontinued relationships with certain friends and business colleagues who influenced him to make "nightlife" a "way of life." He is wholly focused on his business and the positive relationships in his life. I am most impressed with his dedication to keeping his drinking under control. He voluntarily attends AA meetings and has matured quite a bit in the last year. He realizes that there is more to life than going out every night, and he has taken positive steps to surround himself with people who are likeminded.

In November of '06, I went into business with Kasey and have seen nothing but tireless dedication and hard work for his clients

and the business. Having known him for six years, I can honestly say he is a changed person. Had I not seen this side of him, I would not have decided to start the business. I think that it is important to note that I do not believe that it was the punishment or the hassle of the DUI process or the hefty legal fees and fines that made him change his ways. I truly believe that Kasey has gone through some serious self-examination over the past year as a result of the incident. I think that he has found that surrounding himself with positive people who aren't negative influences on him has dramatically changed his life for the better. Most importantly, he has realized that drinking alcohol has been the cause of negative influences in his life and he has voluntarily taken steps to eliminate it from his life.

I am proud to be in business with Kasey, but even more proud to call him my friend.

20. Adam Babbish, a friend and business associate, introduced respondent to the Celebration Church in San Jose. Respondent attends services at that church. Babbish wrote a May 16, 2007 letter in support of respondent:

After his incident in early 2006, Kasey and I spoke about bettering his life through spirituality. My father is a pastor at Celebration Church in San Jose. I asked Kasey to come to church with me and we have been going together since then. I have seen a dramatic change in the way Kasey approaches his life decisions. I have seen him grow as a professional and as an individual in the past year.

21. Tom Noble, Briana Passantino, Mike Thompson, Jacquelynne Price, Nick Niemeyer, and Natalie Troedson are among the friends, professional acquaintances, and clients that wrote letters in respondent's support. They attest to respondent's positive life changes, professionalism, hard work, integrity, kindness, and willingness to help others. Passantino, for example, wrote:

People are constantly making mistakes in this life. That is what living is about, but the ones that learn from their mistakes stand out and Kasey is one of those people. Kasey is someone to admire and aspire to be more like. Anyone who has met him will be able to tell you this same thing. He is one whose sincerity and [generosity] are apparent in all he does, all he strives for and all he has accomplished. When I think about what it means to have a passion I think of Kasey. Kasey is so passionate about his work. The amount of ambition and loyalty

to accomplishing his goals, while practicing integrity is something far beyond admirable.

22. Respondent has a strong support network, as demonstrated by the testimony and letters from his fiancée, brother, AA sponsor, friends and associates. These sources of support, in conjunction with respondent's demonstrated positive change of attitude, make it unlikely that respondent will repeat his past unlawful conduct.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), in conjunction with Business and Professions Code section 490, subdivision (a), provide that a real estate license may be suspended or revoked if the licensee has been convicted of a felony or a crime involving moral turpitude that is substantially related to the qualifications, functions or duties of a real estate licensee.

2. It was not shown that any of respondent's convictions involved conduct that affected his performance as a real estate licensee. Nevertheless, respondent has three convictions involving the use of alcohol, two of which involved drinking and driving. This meets the criterion for substantial relationship in the department's regulations. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(11).)

3. Often described as "an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow man, or to society in general" or as something "contrary to the accepted and customary rule of right and duty between man and man," moral turpitude is "innately a relative concept depending upon both contemporary moral values and the degree of its inimical quality." (*Rice v. Alcoholic Beverage Control Appeals Board* (1979) 89 Cal.App.3d 30, 36.) Although contemporary moral values condemn drunk driving, no appellate case has yet held that misdemeanor driving under the influence of alcohol is a crime involving moral turpitude within the meaning of the Real Estate Law. In the context of attorney discipline proceedings, the California Supreme Court has consistently held that a conviction of misdemeanor DUI does not involve moral turpitude per se. (*In re Kelley* (1990) 52 Cal.3d 487, 494.) It was not established that respondent's 2003 or 2005 convictions involved moral turpitude per se or on their facts and circumstances.

The court in *People v. Forster* (1994) 29 Cal.App.4th 1746, however, noted that repeatedly driving under the influence after previously having been convicted of that crime can evidence the sort of "conscious indifference" toward duties owed society in general that is a hallmark of moral turpitude. Respondent's 2006 offense came while he was still on probation for the 2003 conviction, after he had been required to take a first offender drinking driver program, and after he had specifically been ordered by the court not to drive with any measurable amount of alcohol in his blood. Moreover, respondent refused to submit to alcohol tests, despite the terms of probation that had been imposed on him following his 2003 conviction. Respondent maintained at the time of his arrest and through the hearing in this matter that he was not driving and that he had not left his property at the time of the

February 19, 2006 incident. Still, he entered a nolo contendere plea and was convicted of driving under the influence of alcohol. Under these circumstances, his 2006 conviction evidenced the conscious indifference characterizing moral turpitude.

4. Cause exists to discipline respondent's license under Business and Professions Code section 10177, subdivision (b), in conjunction with Business and Professions Code section 490, subdivision (a).

5. The department's regulations set forth criteria for evaluating the rehabilitation of a licensee. (Cal. Code Regs., tit. 10, § 2912.) Two years have not elapsed since respondent's last conviction. His convictions have not been expunged. He remains on probation. He has not yet abstained from the use of alcohol for two years. He has not yet completed the 18-month second offender program. These considerations typically weigh against a finding of rehabilitation.

In this case, however, respondent has made a strong showing of rehabilitation, changed conduct and change of attitude, despite the relatively short period of time since his last conviction. The record shows that respondent has made definitive changes for the better. He rejected alcohol use, sought out an Alcoholics Anonymous sponsor, completed the AA 12 steps, and continues to attend AA meetings. He has not had subsequent arrests or convictions. He has established new and different social and business relationships from those that existed at the time of his criminal convictions. He is engaged to be married and has established a stable family life. He has a support network that includes his fiancée, family members, AA sponsor, friends, and business associates.

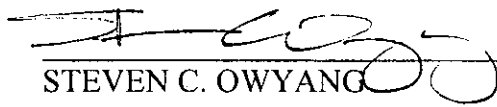
Respondent, and the testimony and letters in his support, demonstrated that he has had a change in attitude, and a change in conduct, from that which existed at the time of his convictions. It appears that respondent is unlikely to re-offend. Under these circumstances, the public interest will be adequately protected by placing respondent on a restricted license. The terms of respondent's restricted license will include a provision allowing the Real Estate Commissioner to suspend the restricted license for violation of any term or condition of probation imposed with regard to respondent's criminal convictions.

ORDER

All licenses and licensing rights of respondent Kasey David Stewart are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 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 Business and Professions Code section 10156.7 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. 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 any term or condition of probation imposed by the courts with regard to his criminal convictions.
4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this decision.
5. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewed 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 he presents such evidence. The commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: July 2, 2007


STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED
FEB -9 2007

DEPARTMENT OF REAL ESTATE

By L. Zarin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H- 9899 SF
12 KASEY DAVID STEWART,)	<u>ACCUSATION</u>
13 Respondent.)	
14)	

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against KASEY DAVID STEWART (hereinafter Respondent),
18 is informed and alleges as follows:

19 I

20 The Complainant, Charles W. Koenig, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

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

1 III

2 On or about April 27, 2005, in the Superior Court of
3 California, County of Santa Clara, Respondent was convicted of
4 violation of California Penal Code Section 647(f) (Disorderly
5 Conduct - Public Intoxication), a crime involving moral
6 turpitude and which is substantially related under Section 2910,
7 Title 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 April 27, 2005, in the Superior Court of
12 California, County of Santa Clara, Respondent was convicted of
13 violation of California Vehicle Code Section 23152(a) with a
14 prior (Driving While Under the Influence of Alcohol or Drugs), a
15 crime involving moral turpitude and which is substantially
16 related under Section 2910 of the Regulations to the
17 qualifications, functions or duties of a real estate licensee.

18 MATTERS IN AGGRAVATION

19 On or about December 1, 2003, in the Superior Court of
20 California, County of Marin, Respondent was convicted of
21 violation of California Vehicle Code Section 23152(b) (Driving
22 With a Blood Alcohol Level of 0.08 or More), a crime involving
23 moral turpitude and which is substantially related under Section
24 2910 of the Regulations to the qualifications, functions or
25 duties of a real estate licensee.

26 ///

27 ///

V

The facts alleged above constitute cause under Section 10177(b) of the Code, in conjunction with Section 490 of the Code, for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 29th day of January, 2007.