

1 DEPARTMENT OF REAL ESTATE  
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FILED

APR 16 2008

DEPARTMENT OF REAL ESTATE

By K. Conteras

8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

11 *In the Matter of the Application of*

12 DAVID TIMOTHY GONZALEZ,

13 Respondent.

)  
) NO. H-10159 SF

)  
) STIPULATION AND WAIVER  
)  
)

15 It is hereby stipulated by and between DAVID TIMOTHY GONZALEZ (hereinafter "Respondent")  
16 and Respondent's attorney, Frank M. Buda, and the Complainant, acting by and through Daniel E. Kehew,  
17 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the  
18 Statement of Issues filed on September 13, 2007, in this matter:

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

1 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner  
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance  
3 to Respondent of an unrestricted real estate salesperson license.

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

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

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

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

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

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

- 7 a. That broker has read the Statement of Issues which is the basis for the issuance of the  
8 restricted license; and
- 9 b. That broker will carefully review all transaction documents prepared by the restricted  
10 licensee and otherwise exercise close supervision over the licensee's performance of acts  
11 for which a license is required.

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

24 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified  
25 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,  
26 and shall not be entitled to the issuance of another license which is subject to Section 10153.4  
27 until four years after the date of the issuance of the preceding restricted license.

1  
2 12/10/07

3 Dated

David E. Kehew

4 Daniel E. Kehew, Counsel, Department of Real Estate

5 \*\*\*

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

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

8 12/10/07

9 Dated

David T. Gonzales

10 DAVID TIMOTHY GONZALES, Respondent

11 I have reviewed the Stipulation and Waiver as to form and content and have advised my client

12 accordingly.

13 12-11-07

14 Dated

Frank Buda

15 FRANK BUDA, Attorney for Respondent

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I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

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

This Order is effective immediately.

IT IS SO ORDERED \_\_\_\_\_ *09-14-08* \_\_\_\_\_

JEFF DAVI  
REAL ESTATE Commissioner

\_\_\_\_\_  
*[Handwritten Signature]*

1 DANIEL E. KEHEW, Counsel (SBN 231550)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0425 (Direct)

FILED  
SEP 13 2007

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 DAVID TIMOTHY GONZALEZ, )  
13 Respondent. )

H-10159 SF

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 DAVID TIMOTHY GONZALEZ (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 against Respondent 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 January 16, 2007, 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 June 4, 1996, in the Municipal Court of  
5 the State of California, County of Santa Clara, Respondent was  
6 convicted of Annoying or Molesting a Child in violation of Penal  
7 Code Section 647.6, a misdemeanor and a crime involving moral  
8 turpitude that bears a substantial relationship under Section  
9 2910, Title 10, California Code of Regulations, to the  
10 qualifications, functions, or duties of a real estate licensee.

11 IV

12 Respondent's conviction, described in Paragraph III,  
13 above, constitutes cause for denial of Respondent's application  
14 for a real estate license under Section 10177(b) of the Code.

15 PRIOR PROCEEDINGS

16 V

17 Respondent made prior application to the Department  
18 of Real Estate of the State of California for a real estate  
19 salesperson license on or about May 17, 2000.

20 VI

21 Effective on or about July 2, 2001, in Case No.  
22 H-7910 SF, OAH Case No. N-2001010425, before the State of  
23 California Department of Real Estate, Respondent's 2000 real  
24 estate salesperson license application, described above, was  
25 denied pursuant to Sections 480(a) and 10177(b) of the Code.  
26 The grounds for denial were based upon Respondent's criminal  
27 conviction, described in Paragraph III, above.

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XI

Respondent made a second prior application to the Department of Real Estate of the State of California for a real estate salesperson license on or about March 19, 2002.

XII

Effective on or about April 15, 2003, in Case No. H-8222 SF, OAH Case No. N-2002110628, before the State of California Department of Real Estate, Respondent's 2002 real estate salesperson license application, described above, was denied pursuant to Sections 480(a) and 10177(b) of the Code. The grounds for denial were based upon Respondent's criminal conviction, described in Paragraph III, above.

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

  
CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California  
this 31<sup>st</sup> day of August, 2007.