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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *K. Mar*

* * *

In the Matter of the Accusation of)

B. CHARLES GLENN and)
EDITH MARIE JOHNSON,)

H-10404 SF

Respondents.)
_____)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default as to EDITH MARIE JOHNSON only, filed on April 20, 2009, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

1

On May 28, 2008, Charles W. Koenig made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by regular mail and certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on May 30, 2008.

On April 20, 2009, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent EDITH MARIE JOHNSON's (hereinafter "JOHNSON") default was entered herein.

2

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

3

Respondent JOHNSON's real estate salesperson license was on expired status from August 12, 1999 through October 23, 2000 and from October 23, 2004 through December 26, 2004.

4

From April 29, 1987 through September 13, 2005, Respondent JOHNSON owned and operated a real estate brokerage called Pacific Property Management, and paid real estate broker B. Charles Glenn (hereinafter "Glenn") \$300 per month to maintain a license bearing the fictitious business name Pacific Property Management.

5

At all times mentioned herein from April 29, 1987 through September 13, 2005, Respondent JOHNSON engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent JOHNSON leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon. Respondent JOHNSON was not in the employ of a real estate broker at all relevant times during this period in violation of Section 10132 of the Code.

6

In or about February 1997, in the course of the activities described in Paragraph 5, above, Respondent JOHNSON entered into a property management agreement with Chelsea Wagner (hereinafter "Wagner") to manage 14 units at 32 Campbell Street, Santa Clara, California (hereinafter "the Campbell property"). Respondent JOHNSON was responsible, among other things, for paying the mortgage payments on the Campbell property as well as taxes, insurance and utility bills. Respondent JOHNSON also agreed to provide Wagner with a monthly accounting.

7

During the months of May through August, 2005, payments to be made to Santa Cruz Municipal Utilities, PG&E, Farmers Insurance, Washington Mutual, and property taxes either "bounced" or were never paid.

2

1

Cause for disciplinary action against Respondent JOHNSON exists pursuant to Business and Professions Code Sections 10130, 10176(a), 10176(i) of the Code in conjunction with Section 10177(d) of the Code.

3

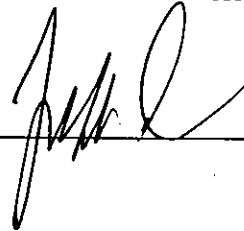
ORDER

All licenses and licensing rights of Respondent EDITH MARIE JOHNSON,
under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on JUN - 4 2009

DATED: 4-28-09

JEFF DAVI
Real Estate Commissioner



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

4 Telephone: (916) 227-0789

FILED

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DEPARTMENT OF REAL ESTATE

By *L. Frost*

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

B. CHARLES GLENN and
EDITH MARIE JOHNSON,

Respondents.

No. H-10404 SF

DEFAULT ORDER

Respondent, EDITH MARIE JOHNSON, having failed to file a Notice of
Defense within the time required by Section 11506 of the Government Code, is now in default.
It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED

4/20/09

JEFF DAVI
Real Estate Commissioner

By:

Charles W. Koenig
CHARLES W. KOENIG
Regional Manager

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Accusation of)
B. CHARLES GLENN, and)
EDITH MARIE JOHNSON,)
Respondents.)

By R. Henry
NO. H-10404 SF
OAH NO. 2008080862

DECISION

The Proposed Decision dated October 10, 2008, of the Administrative Law Judge of the Office of Administrative Hearings, as to Respondent B. CHARLES GLENN only, 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 DEC 9 2008.

IT IS SO ORDERED

11-19 2008
JEFF DAVI

Real Estate Commissioner
[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

B. CHARLES GLENN and

EDITH MARIE JOHNSON,

Respondents.

Case No. H-10404 SF

OAH No. 2008080862

PROPOSED DECISION

This matter was heard on September 18, 2008, before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, in Sacramento, California.

David B. Seals, Counsel, represented complainant.

Respondent B. Charles Glenn, appeared in propria persona.

Edith Marie Johnson, did not appear and was not represented.¹

Evidence was received, the matter was submitted, and the record was closed on September 18, 2008.

FACTUAL FINDINGS

1. The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in his official capacity.

2. B. Charles Glenn (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. Respondent's license will expire on October 4, 2008, unless renewed.

¹ On May 30, 2008, the Department of Real Estate (department) served Edith Marie Johnson with the Accusation at her address of record by first class and certified mail. Both items were returned to the department as "not deliverable as addressed." The department did not serve a Notice of Hearing on Ms. Johnson. Pursuant to Government Code sections 11505, subdivision (b) and 11506, subdivision (c), the department "may proceed upon the accusation without a hearing." This hearing proceeded only as to respondent.

From April 29, 1987 to September 13, 2005, respondent was licensed with the Department of Real Estate (department), doing business as (dba) Pacific Property Management (PPM), located at 519 Seabright Avenue, Suite 213, Santa Cruz, California 95062.

3. Edith Marie Johnson is presently licensed and/or has license rights under the Business and Professions Code as a real estate salesperson. During the periods from January 1, 2005 to June 28, 2005 and from August 30, 2005 to present, Ms. Johnson was not affiliated with respondent or any employing broker.

4. PPM was originally established by Pacific Coast Construction (PCC) and initially performed homeowner's association functions for properties held by PCC. Respondent worked as a construction manager for PCC. In 1987, the management of PCC asked respondent to add PPM under his name and broker license with the department. Respondent complied, and thereafter PPM operated as his dba. Sometime in 1987, PPM added property management functions to its business operations. These functions were managed by Ms. Johnson as an employee of PCC. Respondent was not involved in the business operations of PPM and was not aware of its range of business functions. Respondent did not supervise the activities of Ms. Johnson, who was not licensed in any capacity by the department.

5. In 1989, respondent resigned from PCC and left the Santa Cruz area. Respondent neglected to cancel his dba as PPM with the department. PPM continued its operations without respondent's involvement. Respondent believed that when he resigned from PCC, he had severed all business relations, including his ties to PPM. He admitted at hearing that "he was wrong." PPM continued to be linked to respondent's broker license.

6. In or about 1992, respondent returned to Santa Cruz, California and learned that Ms. Johnson was independently managing the operations of PPM. Ms. Johnson informed respondent that in 1991 she had "purchased" PPM from PCC and obtained a real estate salespersons license. He entered into an agreement with Ms. Johnson, wherein for consideration of \$300 per month, respondent would allow Ms. Johnson to continue to transact business as PPM under his broker license. Respondent did not supervise the activities of Ms. Johnson in managing the operations of PPM.

7. In February of 1997, Chelsea Wagner contracted with Ms. Johnson for PPM to manage her apartment complex located at 32 Campbell Street, Santa Cruz, California 95062. PPM was to provide full property management services including collection of rents and deposits, payment of mortgage installments, utilities and maintenance.²

² The contract required PPM to perform the following tasks: Show and rent the apartments; Accept rent; Deduct for PPM's service prior to issuance of owner's receipts; Provide monthly reconciliations; Pay utilities; Pay lenders; Pay taxes; Order repairs; Keep in trust tenant deposits.

8. In or about May 2004, Ms. Wagner telephoned her mortgage lender, Washington Mutual, to obtain an interest statement. She was notified by the lender that the mortgage on the property at 32 Campbell Street, Santa Cruz, had not been paid for three months, and that the property was in foreclosure and would be sold. All foreclosure notices had been sent to PPM. PPM had not informed Ms. Wagner of this development. Ms. Wagner discovered that though PPM had collected tenant rents, PPM had not paid the utilities, insurance, taxes, and other vendors out of revenues.

9. Ms. Wagner contacted an employee of PPM, but was initially unable to speak directly with Ms. Johnson. Ms. Wagner paid \$19,443.28 to stop the foreclosure and approximately \$20,000 to cover arrears in utilities. In August of 2005, Ms. Wagner terminated her contract with PPM and notified them not to collect any additional rents from tenants. Three tenants paid rent to PPM after the contract was terminated. PPM failed to refund these rents totaling \$2,460. PPM failed to refund security deposits for all tenants. Ms. Wagner paid approximately \$75,000 to remedy the foreclosure, and to pay back taxes, utilities, insurance, and maintenance costs.

10. Ms. Wagner's immediate efforts to contact Ms. Johnson were met with evasion and misrepresentation. On or about December 2, 2005, Ms. Johnson signed a written agreement to pay Ms. Wagner restitution in the amount of \$70,710.48, in installments of \$1000 per month. Ms. Wagner testified she received \$2,000 from Ms. Johnson and thereafter lost contact with Ms. Johnson. Ms. Wagner subsequently hired an attorney and filed suit against PPM for \$75,000 in lost revenues and expenses. Ms. Wagner learned from her attorney that PPM was actually owned by respondent. On February 24, 2006, Ms. Wagner filed a complaint with the department. Ms. Wagner met respondent for the first time at hearing on September 18, 2008. As of September 2008, her civil lawsuit against PPM is pending in Santa Cruz County.

11. In 1987, Richard A. Hingley entered into a contract with PPM for PPM to manage his property at 125 Castillion Terrace, Santa Cruz, California. In August of 2005, Mr. Hingley received a \$200 homeowner's association bill for monthly parking for a new tenant. PPM had not notified him of a new tenant. When he attempted to sever his agreement with PPM, he was told by staff that it would take 90 days to cancel their services. After reviewing his bank accounts, he discovered he had not been paid rents since January of 2005. PPM failed to disburse rents and deposits owed to Mr. Hingley in the amount of \$15,000. PPM also failed to return tenant security deposits. Two tenants subsequently sued Mr. Hingley directly for their deposits in the amounts of \$2,100 (plaintiff Twowig) and \$2,025 (plaintiff Lakshminarayanan).

12. On August 31, 2005, Mr. Hingley went to the PPM office and found it locked. He learned from people in an adjoining office that tenants had been slipping September rent checks under the door. Mr. Hingley went to his property to inform tenants to pay rents directly to him. Tenants did not know he was the owner. Mr. Hingley hired a new property management company and an attorney. Mr. Hingley learned from his attorney that respondent was the broker and Ms. Johnson was working under respondent's license. Mr.

Hingley first met respondent at the civil trial wherein Mr. Hingley was being sued by one of his tenants (plaintiff Twowig).

13. Respondent was not involved with the management and operations of PPM. He stated at hearing, "I had no key, no access to records, never hired, advised, took moneys or handled affairs. It was her company. I realize there was a fundamental problem. She had expanded beyond the homeowner's association and had gone into the property management business." Respondent believed that Ms. Johnson incorporated PPM under the name Edith Marie Inc., PPM. He did not submit evidence of a corporate name change. He testified he "did not know the property management business. I mistakenly relied on her knowledge. There were no problems until 2004, when things went sideways." He admitted receiving \$300 monthly from Ms. Johnson from 1991 to June 2005. The last two checks bounced. He stated, "For 15 of 20 years it was a well operated business, she went out of the country, I couldn't get a hold of her."

14. In June 2005, respondent received a notice of audit from the department. He checked on-line and found that Ms. Johnson's real estate salesperson license had lapsed for a brief period. In response, respondent re-activated Ms. Johnson in his employ; under his broker license. Respondent testified that he took this step in an effort to fully cooperate with the department audit. On August 30, 2005, after unsuccessfully attempting to reach Ms. Johnson directly, respondent cancelled his broker association with her license.

15. On September 13, 2005, respondent cancelled the dba as PPM.

16. Respondent cooperated with the department's initial audit. Respondent admitted that he failed to monitor the operations of PPM and failed to confirm Ms. Johnson's license status.

17. At hearing respondent reiterated, "She purchased the company straight out. In retrospect, I should have given supervision. I have no property management expertise, I only sold real estate. In retrospect, it was not appropriate, had I known she was taking cash under the door." With respect to his broker obligation, he further stated, "I didn't agree to supervise her and never meant to. If I'd known about that responsibility, I would never have put her under my license."

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 10130, states in relevant part:

It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department.

2. Business and Professions Code section 10131, states in relevant part:

A real estate broker within the meaning of this part is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others: [¶]...[¶]

(b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities. [¶]...[¶]

3. Business and Professions Code section 10132, states:

A real estate salesman within the meaning of this part is a natural person who, for a compensation or in expectation of a compensation, is employed by a licensed real estate broker to do one or more of the acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

4. Business and Professions Code section 10137, states:

It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesman licensed under the broker employing or compensating him; provided, however, that a licensed real estate broker may pay a commission to a broker of another State.

No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed.

It is unlawful for any licensed real estate salesman to pay any compensation for performing any of the acts within the scope of this chapter to any real estate licensee except through the broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this part relating to hearings.

5. Business and Professions Code section 10176, subdivisions (a), (b), (c) and (i), state:

The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade or induce.
- (c) A continued and flagrant course of misrepresentation or making of false promises through real estate agents or salespersons. [¶]...[¶]
- (i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing. [¶]...[¶]

6. Business and Professions Code section 10177, subdivisions (d), (g), (h) and (j), state:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following: [¶]...[¶]

- (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.
[¶]...[¶]
- (g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

- (h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required. [¶]...[¶]
- (i) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing. [¶]...[¶]

7. California Code of Regulations, title 10, section 2725, states:

A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

- (a) Transactions requiring a real estate license.
- (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.
- (c) Filing, storage and maintenance of such documents.
- (d) The handling of trust funds.
- (e) Advertising of any service for which a license is required.
- (f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- (g) Regular and consistent reports of licensed activities of salespersons.

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.

A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.

Standard/Burden of Proof

8. In proceedings involving the revocation or suspension of professional licenses, a higher degree of proof may be required, i.e. clear and convincing proof to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 857.) The higher standard recognizes a possible infringement of one's right to professional employment opportunity and vested interests. (*Ibid.*)

Causes for Discipline of Respondent

9. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code section 10177, subdivision (d), in conjunction with Business and Professions Code sections 10130 and 10137, in that he failed to monitor the validity of Ms. Johnson's real estate salesperson license during the period in which she was affiliated with his broker license, by reason of Findings 6, 13, 14, and 17.

10. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code section 10177, subdivisions (g) and (h), in conjunction with California Code of Regulations, title 10, section 2725, in that he negligently failed to exercise reasonable supervision over the activities of Ms. Johnson, by reason of Findings 3 through 17.

11. While a broker performs the specified services for the public, a salesman must be "employed by" a licensed real estate broker. (*People v. Asuncion* (1984) 152 Cal.App.3d 422, 425.) "When a salesman's application for a license is granted, the license goes into possession of the broker-employer and there remains until cancellation or until the salesman leaves that broker's employ." (*Ibid.*; Bus. & Prof. Code, § 10160.) "The broker is subject to revocation of his license if he fails to exercise reasonable supervision over the activities of his salesmen." (*Ibid.*; Bus. & Prof. Code, § 10177, subd. (h).)

12. Respondent entered into a business arrangement wherein he agreed to affiliate his broker license with Ms. Johnson's newly obtained real estate salesperson license in exchange for her payment to him of \$300 per month. (Findings 6 and 13.) From 1992 to 2005, respondent did not monitor Ms. Johnson's license status and did not realize it had lapsed. (Findings 13 and 14.) Respondent did not supervise the daily operations of PPM. (Findings 4, 13, and 17.) Respondent was unaware of which real estate services were being performed under the auspices of PPM. (*Ibid.*) As a result, he was not aware of the flagrant mismanagement of PPM. (Findings 7 through 12.) Respondent's failure to supervise the activities of PPM and Ms. Johnson, resulted in the events set forth in Findings 3 through 17. At least two property owners lost substantial revenues, several tenants lost their security deposits; and all were forced to seek remedy in civil court. (Findings 9 through 12.)

13. At hearing, respondent failed to show that he appreciated the legal obligations of a real estate broker as defined in Business and Professions Code section 10137, and California Code of Regulations, title 10, section 2725. However, respondent appeared remorseful for the consequences of his actions and omissions. He acknowledged that he had no property management experience and did not know Ms. Johnson was "taking cash under the door." (Finding 17.) He realizes that PPM was his business until August of 2005, and that he should have been supervising the activity of Ms. Johnson. It is also clear that he did not directly participate in the handling of rents and expenses associated with PPM's property management activities.

14. Under all of the facts and circumstances, it would be contrary to the public interest to permit respondent to remain licensed as a real estate broker at this time, with or without a restricted license. However, it would not be contrary to the public interest to permit respondent to transact real estate in association with a competent real estate broker, under a restricted real estate salesperson license.

ORDER

1. The real estate broker license and licensing rights of respondent B. Charles Glenn under the Real Estate Law are REVOKED pursuant to Legal Conclusions 9 through 14, separately and collectively.

2. A restricted real estate salesperson 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:

a. 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.

b. 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.

c. 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 two years have elapsed from the effective date of this Decision.

d. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(1) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(2) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

e. Respondent shall, within nine 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 the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

3. Restitution Condition:

Respondent shall, prior to the issuance of the restricted license and as a condition of the issuance of said restricted license, submit proof satisfactory to the Commissioner of payment in full or compliance with any and all agreed upon installments toward restitution in satisfaction of any and all orders or stipulated settlements or other agreements, arising out of the conduct of PPM.

Dated: October 10, 2008



DIAN M. VORTERS
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

MAY 30 2008

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)

No. H-10404 SF

13 B. CHARLES GLENN and)

ACCUSATION

14 EDITH MARIE JOHNSON,)

15 Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California for cause of
18 Accusation against B. CHARLES GLENN (hereinafter Respondent
19 "GLENN") and EDITH MARIE JOHNSON (hereinafter Respondent
20 "JOHNSON") is informed and alleges as follows:

21 I

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

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1 II

2 Respondent GLENN is presently licensed and/or has
3 license rights under the Real Estate Law (Part 1 of Division 4
4 of the California Business and Professions Code) (hereinafter
5 "Code") as a real estate broker. From April 29, 1987 to
6 September 13, 2005, Respondent GLENN had a license with the
7 Department of Real Estate (hereinafter the "Department") dba
8 Pacific Property Management (hereinafter "PPM").

9 III

10 Respondent JOHNSON is presently licensed and/or has
11 license rights under the Code as a real estate salesperson.
12 Respondent JOHNSON has not been affiliated with any real estate
13 broker for the period starting August 12, 1999 through June 27,
14 2005 and from August 30, 2005 through the present.

15 IV

16 Respondent JOHNSON'S real estate salesperson license
17 was expired from August 12, 1999 through October 23, 2000 and
18 from October 23, 2004 to December 26, 2004.

19 V

20 From on or about April 29, 1987 to September 13, 2005
21 Respondent GLENN was paid \$300 per month by Respondent JOHNSON
22 to maintain the dba for PPM while Respondent JOHNSON owned and
23 operated PPM on her own.

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1 VI

2 In or about February 1997, Chelsea Wagner (hereinafter
3 "Wagner") entered into a property management agreement with
4 Respondent JOHNSON dba PPM to manage 14 units at 32 Campbell
5 Street, Santa Cruz (hereinafter the "Campbell Property").

6 VII

7 The management agreement, discussed in Paragraph VI
8 above, provided among other things, that PPM was responsible for
9 paying the mortgage payments on the Campbell Property, as well
10 as, taxes, insurance and utility bills. PPM also agreed to
11 provide Wagner with a monthly accounting.

12 VIII

13 At some time in mid-2005, Wagner discovered that PPM's
14 check to pay the May mortgage payment to Washington Mutual on
15 the Campbell Property was not honored by the bank. She also
16 discovered that the monthly accountings for the Campbell
17 Property for May through August of 2005 misrepresented the
18 payment of bills for the mortgage payment, property taxes,
19 property insurance, and utilities.

20 IX

21 During the months of May through August of 2005,
22 payments to be made to Santa Cruz Municipal Utilities, PG&E,
23 Farmers Insurance, Washington Mutual, and property taxes, either
24 "bounced" or were never paid.

25 ///

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27 ///

1 X

2 Wagner wrote to PPM on August 25, 2005 to discontinue
3 her property management agreement. Subsequent to that date PPM
4 received rent payments totaling \$2,460 from three tenants of the
5 Campbell Property but has failed to transfer such rents to
6 Wagner.

7 XI

8 The total of misappropriated funds by PPM from Wagner
9 as of December 2005 amounted to more than \$72,000.

10 XII

11 On or about March 27, 1987 Richard Hingley
12 (hereinafter "Hingley") entered into a property management
13 agreement with Respondent JOHNSON dba PPM for his property at
14 125 Castillion Terrace, Santa Cruz (hereinafter the "Castillion
15 Terrace Property").

16 XIII

17 On or about June 9, 2005, on behalf of Hingley, PPM
18 negotiated a lease with Sean Twowig (hereinafter "Twowig") for
19 the Castillion Terrace Property.

20 XIV

21 Pursuant to the lease discussed in Paragraph XIII
22 above, PPM collected a security deposit of \$2,100 from Twowig to
23 be refunded upon vacating of the premises under specified
24 conditions.

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1 XV

2 Hingley notified PPM on August 31, 2005 that he no
3 longer wanted them to manage the Castillion Terrace Property and
4 requested that the \$2,100 deposit from Twowig be transferred to
5 him.

6 XVI

7 PPM has failed and refused to disburse the \$2,100 to
8 Hingley.

9 XVII

10 The activities performed by Respondent JOHNSON as
11 discussed in Paragraphs V through XVI above, from at least on or
12 about August 12, 1999 to September 15, 2005 are acts for which a
13 real estate license is required pursuant to Section 10130 and
14 10131(b) of the Code. However, Respondent JOHNSON was not in the
15 employ of a real estate broker at all relevant times during this
16 period in violation of Section 10132 of the Code.

17 XVIII

18 Respondent JOHNSON was compensated by Respondent GLENN
19 dba Pacific Property Management for performing the acts for
20 which a real estate license is required, as discussed above, in
21 violation of Sections 10130, in conjunction with Section 10132
22 of the Code, and Section 10137 of the Code.

23 XIX

24 At all times mentioned herein above, Respondent GLENN
25 failed to exercise reasonable supervision over the activities of
26 Pacific Property Management and Respondent JOHNSON, and
27 permitted, ratified and/or caused the conduct described above.

1 Respondent GLENN failed to reasonably or adequately review,
2 oversee, inspect and manage the salespersons under his employ,
3 and/or to establish reasonable policies, rules, procedures and
4 systems for such review, oversight, inspection and management.

5 X

6 The acts and/or omissions of Respondents described
7 above are grounds for the suspension or revocation of
8 Respondents' licenses and license rights as follows:

9 (1) As to Respondent GLENN under Sections 10137,
10 10177(g) and 10177(h) of the Code and Section
11 2725 of the Regulations in conjunction with
12 Section 10177(d) of the Code; and

13 (2) As to Respondent JOHNSON under Sections
14 10176(a), (b), (c), and (i) and Section 10137 of
15 the Code and Sections 10130 and 10131(b) of the
16 Code in conjunction with Sections 10132 and
17 10177(d) of the Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents,
5 under the Real Estate Law (Part 1 of Division 4 of the Business
6 and Professions Code) and for such other and further relief as
7 may be proper under other provisions of law.

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9 
10 CHARLES W. KOENIG
11 Deputy Real Estate Commissioner

12 Dated at Sacramento, California,
13 this 28th day of May, 2008.
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