

FILED

DEC 30 2008

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By R. Henry

In the Matter of the Accusation of)

IAN MICHAEL CARR,)

Respondent.)

NO. H-10527 SF

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 filed on December 19, 2008, 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.

This Decision revokes a real estate license on grounds of the conviction of a crime.

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 September 19, 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 certified mail, to Respondent's last known mailing address on file with the Department on September 19, 2008.

On December 19, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Based upon three (3) alcohol related driving convictions, on or about March 17, 2005, the Department denied Respondent's application for a real estate license. However, pursuant to a stipulation

and wavier, Respondent was granted a restricted real estate license. (DRE case number H-9126 SF), On or about October 14, 2008, after being arrested for the alcohol related driving offense identified in Paragraph 3 below, Respondent's restricted real estate license was suspended by order of the Commissioner of the California Department of Real Estate. Therefore, at all times relevant herein, Respondent has been licensed by the Department under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a restricted real estate salesperson.

3

On or about July 11, 2007, in the Alameda County Superior Court, Respondent was convicted of a violation of Section 23152(b) (driving under the influence of alcohol with a BAL of 0.08% or greater) of the California Vehicle Code, a misdemeanor and a crime which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

DETERMINATION OF ISSUES

1

The findings above constitute cause for the suspension or revocation of the licenses and license rights of Respondent under Sections 490 and 10177(b) of the Code.

2

The standard of proof applied was clear and convincing proof to a reasonable certainty.

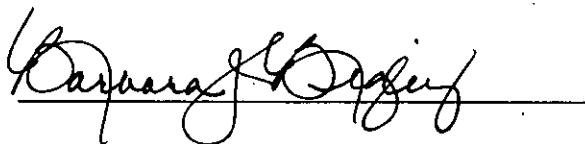
ORDER

All licenses and licensing rights of Respondent, IAN MICHAEL CARR, under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on
JAN 20 2009

DATED: 12-29-08

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0791
5
6

FILED

DEC 19 2008

DEPARTMENT OF REAL ESTATE

By R. Henry

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) Case No. H-10527 SF
11)
12 IAN MICHAEL CARR,)
13)
14) DEFAULT ORDER
15 Respondent.)
16)

17
18 Respondent, IAN MICHAEL CARR, having failed to file a Notice of Defense
19 within the time required by Section 11506 of the Government Code, is now in default. It is,
20 therefore, ordered that a default be entered on the record in this matter.

21
22 IT IS SO ORDERED December 19, 2008

23 Real Estate Commissioner

24
25 By:

Charles W. Koenig
26 CHARLES W. KOENIG
27 Regional Manager

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 19 2008

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 IAN MICHAEL CARR,) H-10527 SF
14 Respondent.) ACCUSATION
15

16 The Complainant, CHARLES W. KOENIG, for cause of
17 Accusation against IAN MICHAEL CARR (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 1

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

24 2

25 Complainant, CHARLES W. KOENIG, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity.

1
2
3 3

4 Respondent made prior application to the Department
5 of Real Estate of the State of California for a real estate
6 salesperson license on or about July 1, 2004.

7 4

8 Effective on or about March 17, 2005, in Case No.
9 H-9126 SF, before the State of California Department of Real
10 Estate, Respondent's 2004 real estate salesperson license
11 application, described above, was denied pursuant to Sections
12 480(a) and 10177(b) of the Code. The grounds for denial were
13 based upon Respondent's prior criminal convictions. Respondent
14 was granted a restricted real estate salesperson license under
15 the Real Estate Commissioner's authority of Section 10156.5 of
16 the Code.

17 5

18 On or about July 11, 2007, in the Superior Court of
19 the State of California, County of Alameda, Respondent was
20 convicted of the crime of Driving Under the Influence of Alcohol
21 and/or Drugs in violation of Vehicle Code Section 23152(b), a
22 misdemeanor and a crime that bears a substantial relationship
23 under Section 2910, Title 10, California Code of Regulations,
24 to the qualifications, functions, or duties of a real estate
25 licensee.

26 6

27 The facts alleged above constitute cause under
Section 10177(k) of the Code for suspension or revocation of
Respondent's license 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 Code, and for such other and further relief as may be proper under provisions of law.

Charles W. Koenig
CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 11th day of September, 2008.