

FILED
MAY 13 2011
DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-36127 LA
)	
KEVIN LEIGH FRAMPTON)	L-2009090058
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated April 22, 2011, 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, but the right to a restricted license is granted to Respondent.

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 _____
June 2, 2011.

IT IS SO ORDERED 5/10, 2011.

Real Estate Commissioner

Barbara J. O'Connell

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

KEVIN LEE FRAMPTON,

Respondent.

Case No. H-36127 LA

OAH No. 2009090058

PROPOSED DECISION

Presiding Administrative Law Judge, Michael A. Scarlett, Office of Administrative Hearings, State of California, heard this matter on February 24, 2010; in Los Angeles, California.

Lisette Garcia, Staff Counsel, represented Maria Suarez, Deputy Real Estate Commissioner of the State of California (Complainant).

Frank M. Buda, Attorney at Law, represented Kevin Lee Frampton (Respondent) who was present at hearing.

Oral and documentary evidence was received. The record was held open until March 26, 2010, to allow Complainant to clarify the whether Respondent had been convicted of a violation of Vehicle Code section 20001, subdivision (a), leaving the scene of an accident, a felony (Count 3), or a violation of Vehicle Code section 20002, subdivision (a), hit and run driving, a misdemeanor (Count 4) of the Felony Complaint filed March 11, 2008. Respondent was given until April 2, 2010, to file a response to the clarifying documents, if any, that would be submitted by Complainant.

On March 9, 2010, Complainant submitted the reporter's transcript for the plea and sentencing proceedings held in Santa Barbara Superior Court on September 18, 2008, in Case No. 1258130, along with a cover memorandum from Complainant's counsel. This transcript and memorandum was marked as Complainant's Exhibit 6. On March 17, 2010, Complainant submitted a letter from Santa Barbara Superior Court Judge George C. Eskin, the judge who presided over Respondent's plea and sentencing proceedings, in which the Judge Eskin clarified the offenses to which Respondent pled and was actually convicted. This letter, transcript, and cover memorandum were marked as Complainant's Exhibit 7.

On March 26, 2010, Respondent's counsel, Frank Buda submitted a response to complainant's Exhibits 6 and 7. Respondent's March 26, 2010 letter was marked as Respondent's Exhibit K, which was admitted into evidence without objection by Complainant. Respondent offered no objections to the admission of Complainant's Exhibits

6 and 7, which were admitted into evidence for the limited purpose of clarifying and establishing the actual criminal offenses that Respondent was convicted of and sentenced. The record was closed and the case submitted for decision on April 2, 2010.

On February 10, 2011, Respondent filed a Motion to Augment the Record with evidence of an Order Granting Expungement of Conviction pursuant to Penal Code section 1203.3 and 1203.4. This document was marked as Respondent's Exhibit L. On February 10, 2011, Complainant filed a non-opposition to admission of Respondent's Exhibit L. Thereafter, the record was re-opened and Respondent's Exhibit L was admitted into evidence. The record was closed and the matter was submitted for decision on February 11, 2011.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. On July 16, 2009, Complainant issued the Accusation against Respondent in her official capacity as a Deputy Real Estate Commissioner of the State of California. On August 17, 2009, Respondent filed a Notice of Defense with the Department of Real Estate (Department), and this hearing ensued.

2. On February 24, 2010, Complainant moved to amend the Accusation at hearing as follows: Paragraph III, Page 2, Line 10 is amended following the word "felonies" to add: "and/or Vehicle Code section 20002, subd. (a) (hit and run driving), a misdemeanor." Complainant's request to amend the Accusation at hearing was granted without objection by Respondent.

3. On August 12, 1980, Respondent was licensed as a real estate salesperson, license number S/00794267. Respondent's salesperson license is in full force and effect and will expire on April 4, 2011, unless renewed by the Department.

4. On September 18, 2008, in the Superior Court of California, County of Santa Barbara, Case No. 1258130, Respondent was convicted on his plea of nolo contendere to driving with a blood alcohol level of .08 percent and causing injury, in violation of Vehicle Code section 23153, subdivision (b), and leaving the scene of an accident in violation of Vehicle Code section 20001, subdivision (a), both felonies.¹ Imposition of sentence was

¹ Respondent's counsel initially argued that Respondent pled nolo contendere to a violation of Vehicle Code section 20002, subdivision (a) (hit-run driving), a misdemeanor, rather than a violation of Vehicle Code section 20001, subdivision (a), the felony offense of leaving the scene of an accident. Although initial conviction records offered at hearing were inconclusive regarding the actual offense pled to by Respondent, court records and transcripts subsequently provided by Complainant, including a letter from the sentencing judge in the Superior Court, Honorable George C. Eskin, confirmed that Respondent in fact

suspended and Respondent was placed on felony/supervised probation for a period of three years, ordered to serve 150 days in county jail, with credit for two days time served, ordered to pay victim restitution in the amount \$3,008, to pay other fines, fees, and penalties in the total amount of \$6,823.80. Respondent paid the restitution, fines, fees, and penalties ordered by the court on October 27, 2008. Respondent also completed a three month 1st Offender Program on April 16, 2009. Effective, January 28, 2011, after the hearing in this case, Respondent's probation was terminated and his September 18, 2008, convictions were expunged pursuant to Penal Code sections 1203.3 and 1203.4.

5. The facts and circumstances surrounding Respondent's conviction are that on February 21, 2008, he was involved in a vehicle accident in Santa Barbara, California. Respondent admitted that he had consumed alcohol on the evening the accident occurred ("five or six beers") but does not clearly recall the circumstances surrounding the accident. California Highway Patrol (CHP) officers responding to a CHP dispatch arrived at the scene of the accident to discover that a Dodge vehicle had hit another vehicle and fled the scene of the accident. At least two vehicles were damaged as a result of the collision caused by Respondent's vehicle. Witnesses to the accident described Respondent's vehicle to officers after he fled the scene. Officers ascertained Respondent's vehicle license plate number, which led to obtaining his address. At least two persons sustained injuries as a result of the accident caused by Respondent's vehicle.

6. The license plate number led officers to Respondent's residence, where the officers discovered the Dodge vehicle described by witnesses parked at Respondent's home. There was moderate damage to the front of the vehicle consistent with damage sustained in a vehicle accident. Officers confirmed that Respondent was the registered owner of the Dodge vehicle. The CHP officers confronted Respondent in his home and determined he was visibly intoxicated and smelled of the strong scent of alcohol. Respondent admitted he was the driver of the Dodge vehicle that was involved in the accident. While outside Respondent's home, officers administered a field sobriety tests which further confirmed his alcohol intoxication. At this time, Respondent was placed under arrest and subsequently administered a blood test. The results of the blood alcohol test were not offered into evidence.

7. At hearing, Respondent admitted he had been drinking on the evening of February 21, 2008. He recalled drinking five or six beers and being intoxicated when the accident occurred. Respondent testified that he did not clearly recall leaving the scene of the accident or the circumstances surrounding his collision with any other vehicle. Although he stated he did not fully realize the extent of his actions at the time they occurred because of his intoxication, Respondent knew he had been in an accident and he was cognizant enough after the accident to drive himself home.

pled no contest to Counts 2 and 3 of the felony complaint, the felony offenses of driving with a blood alcohol level of .08 or greater causing injury in violation of Vehicle Code section 23153, subdivision (a), and leaving the scene of an accident in violation of Vehicle Code section 20001, subdivision (a).

8. Respondent is 57 years old and started drinking when he was sixteen years old. He started attending Alcohol Anonymous (AA) meetings in the early 1980's. However, prior to the 2008 accident, Respondent was not undergoing regular treatment or attending AA meetings with any regularity. Respondent had not consumed alcohol in over 11 years before the February 2008 accident. He started drinking alcohol one week prior to the accident because of stress related to his girlfriend, Sandra Azar's, cancer diagnosis. Azar was diagnosed with cancer in late 2007 or early 2008, and was being treated for cancer at the time of Respondent's vehicle accident. Respondent has known Azar since 1999 and was living with her at the time of the accident. Azar was unable to attend the hearing because of her work schedule, but she submitted a letter attesting to Respondent's positive attempts at rehabilitating himself from alcoholism.

9. Respondent accepts responsibility for his actions, acknowledges that he suffers from alcoholism, and realizes that being an alcoholic does not excuse his conduct in driving while intoxicated and fleeing the scene of a vehicle accident. He expressed sincere remorse for his actions which resulted in injury to other persons involved in the vehicle accident. Respondent's demeanor and candor while testifying evidenced an individual who is acutely aware that he is unable to consume alcohol without causing detriment to himself and potentially others. To that end, Respondent has renewed his commitment to treatment and rehabilitation efforts in an attempt to overcome his disease.

10. Following the DUI and vehicle accident in February 2008, Respondent began an aggressive alcohol treatment and rehabilitation program. Respondent has not consumed any alcohol since February 2008. He started attending AA meetings four to five times weekly and also sought individual counseling from a psychotherapist, Les Jones, MFT at Full Spectrum Recovery. In September 2008, Respondent completed a six-month outpatient alcohol and drug treatment program, Project Recovery, during which time he became a group leader in discussing alcohol and drug abuse with much younger participants in the program. Respondent also voluntarily agreed to continue individual treatment with Carole Bennett, MA, a counselor with Project Recovery, for three additional months after completing the Project Recovery program. Respondent currently attends AA meetings at least twice per week. His AA sponsor, Orman Gasper, submitted a letter of reference attesting to Respondent's recommitment and resolve to combating his alcoholism through his AA rehabilitation program.

11. Respondent currently works as a real estate salesperson with Coldwell Banker in Santa Barbara, California. His office manager, Charles Farish, submitted a letter on Respondent's behalf attesting to Respondent's good character and his proficient ability as a real estate salesperson. Respondent disclosed his February 2008 conviction to Mr. Farish who indicated he would agree to work with the supervising broker in his office to supervise Respondent if a restricted license was issued to Respondent by the Department.

12. Respondent possesses a Class B General Contractor's license and has been licensed by the Contractor's State License Board since August 22, 1984. He builds

residential homes in the Santa Barbara area and has acted as the sales agent for many of the homes that he's built.

13. Respondent also has been very active in his community and abroad through both monetary donations/philanthropy and his volunteer work in building homes. He has traveled to Mexico to volunteer to build homes and has provided temporary housing to fire evacuees in the Santa Barbara area during recent forest fires. Respondent also has participated in charitable foundations in India and Mexico that provided dental and eye services through volunteer clinics. He has an extensive track record of community service through his church and volunteer work in his community.

14. Respondent has no prior criminal convictions or disciplinary actions by the Department. The February 2008 incident appears to be an aberration in what had, up to that time, been an otherwise lawful and productive professional life by Respondent. He has fully accepted responsibility for his conduct and his demeanor and candor at hearing suggest that Respondent understands the seriousness of his alcohol addiction and is actively seeking professional help to control this disease. Respondent expressed sincere remorse and embarrassment for his unlawful conduct, and regrets the harm he caused to the victims of the 2008 vehicle accident. He has paid full restitution to the victims and has offered to compensate the victims further if necessary through his services as a general contractor.

15. Respondent's actions since February 2008, evidenced a credible change in his attitude toward the importance of sustained treatment and rehabilitative efforts in overcoming his addiction to alcohol.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

Applicable Law

1. A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the licensee. (Bus. & Prof. Code § 490, subd. (a).) The Commissioner of the Department of Real Estate may suspend or revoke the license of a real estate licensee who has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a felony, or a crime that is substantially related to the qualifications, functions or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal. (Bus. & Prof. Code § 10177, subd. (b).)

3. A crime or act "shall be deemed to be substantially related to the qualifications, functions or duties of a licensee" if it involves the "[d]oing of any unlawful

act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.” (Cal. Code of Regs., tit. 10, § 2910, subd. (a)(8).)

4. Vehicle Code section 23153 subdivision (b), provides that “it is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver. . . .” Vehicle Code section 20001, subdivision (a) provides that “[t]he driver of a vehicle involved in an accident resulting in injury to a person, other than himself or herself, or in the death of a person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.”²

Cause For Discipline

5. Cause exists to suspend or revoke Respondent’s real estate salesperson’s license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), in that Respondent has been convicted of driving under the influence of alcohol and causing injury and leaving the scene of an accident involving injury, both felonies, and crimes that are substantially related to the qualifications, functions, and duties, of a real estate salesperson, by reason of Factual Findings 4 through 15.

6. On February 21, 2008, Respondent was involved in a vehicle accident and fled the scene of the accident without providing identifying information to other persons involved in the accident. There was injury and property damage caused to other persons and vehicles as a result of Respondent’s conduct. Respondent was intoxicated when the accident occurred and ultimately was convicted of two felony offenses. Respondent admitted his conduct and conceded that he was intoxicated when the vehicle accident occurred. When officers arrived at Respondent’s home after he had fled the scene of the accident, he was visibly intoxicated and wreaked of alcohol. Respondent admitted drinking five or six beers before attempting to drive home the evening of the accident, and thus, knew he was intoxicated when he chose to drive his vehicle.

² Vehicle Code section 20003 provides that the driver of any vehicle involved in an accident resulting in injury to or death of any person shall provide identifying information to the other persons involved in the accident, including identifying information of any injured occupant in the driver’s vehicle, and shall give the identifying information to law enforcement officers at the scene of the accident. The driver is also required to render “reasonable assistance” to any person injured in the accident. Section 20004 provides that in the event of death of any person resulting from an accident, the driver of any vehicle involved in such accident, after fulfilling identification requirements and no law enforcement officers are at the scene, shall, without delay, report the accident to the nearest law enforcement office and file a report.

Although Respondent stated he vaguely remembered the vehicle accident, he is credited with having full knowledge of his actions on the evening of February 21, 2008. In fact, the Vehicle Code section 20001, subdivision (a) conviction (leaving the scene of an injury accident), has knowledge as a key element of the felony offense. (*People of the State of California v. Bautista* (1990) 217 Cal.App.3d 1, at p. 6-7.) Respondent's conviction of this felony offense precludes him from denying knowledge of his conduct. Thus, he knowingly fled the scene of a vehicle accident that ultimately caused injury to the person and property of others.

7. An inference can be made that Respondent's intent in fleeing the scene of the vehicle accident was to prevent disclosure of his identity and avoid financial responsibility for injuries and damage to property of others involved in the accident, thus attempting to confer a financial or economic benefit upon himself. (Cal. Code of Regs., tit. 10, § 2910, subd. (a)(8).) Although specific intent to cause this injury may not be clear, intent that he intended to prevent detection and avoid responsibility for his actions may nevertheless be inferred based upon Respondent's conduct in fleeing the scene. Convictions of crimes involving fraudulent intent and intentional dishonesty for personal gain establish moral turpitude as a matter of law. (*Harrington v. Dept. of Real Estate* (1989) 214 Cal.App.3d 394, 400-401.)

A real estate licensee must be honest, truthful, possess good moral character, and exhibit a high degree of integrity. Insuring consumer safety in real estate transactions is a significant public policy because of the access real estate licensees have to consumers' financial matters and personal information. "Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. If [respondent's] offenses reflect unfavorably on his honesty, it may be said he lacks the necessary qualifications to become a real estate salesperson." (*Harrington v. Dept. of Real Estate* (1989) 214 Cal.App.3d 394, 402.) "The Legislature intended to ensure that real estate brokers and salespersons will be honest, truthful and worthy of the fiduciary responsibilities which they will bear." (*Ibid.*)

There is also sufficient evidence to conclude that Respondent's knowing decision to drive a vehicle while severely intoxicated constituted a threat of doing substantial injury to the person or property of others, particularly given the fact that he fled the scene of the accident without ascertaining whether any person was injured, and continued driving to his home in his intoxicated state. (Cal. Code of Regs., tit. 10, § 2910, subd. (a)(8).)

8. Finally, independent of Business and Professions Code section 490, Respondent's two felony convictions for violations of Vehicle Code sections 23153, subdivision (b), and 20001, subdivision (a), constitute an independent basis for discipline pursuant to Business and Professions Code section 10177, subdivision (b), which provides for discipline based upon Respondent's incurring the felony convictions alone.

On these facts, there is sufficient evidence to establish a substantial relationship between Respondent's conduct on February 21, 2008, and the licensed activity.

Accordingly, there is sufficient evidence to conclude that Respondent's criminal convictions established caused to discipline his real estate salesperson license.

Rehabilitation

9. California Code of Regulations, title 10, section 2912 provides as follows:

The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

- (a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.)
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
- (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- (h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the

criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that is reflective of an inability to conform to societal rules when considered in light of the conduct in question.

10. Respondent provided sufficient evidence of rehabilitation such that it would not pose a significant risk to the public's safety and welfare if he is allowed to retain a properly restricted real estate salesperson license. He accepts responsibility for his conduct and admitted his criminal convictions. Respondent is ashamed and embarrassed as a result of his conduct and has actively sought treatment for his addiction to alcohol. His demeanor and conduct at hearing evidenced a person who was sincere about his efforts at rehabilitation and his recognition and acceptance of the fact that he has a disease, alcoholism.

11. When applying the Department's criteria for rehabilitation, Respondent has achieved or met the overwhelming majority of the factors to be considered in determining

rehabilitation. At the time of hearing, February 2010, over two years had passed since Respondent committed the conduct for which he was convicted, although the criminal conviction occurred less than two years from date of hearing [Factual Findings 4-7, CCR 2912, subd. (a)]. Respondent has paid all restitution ordered by the court [Factual Finding 4, CCR 2912, subd. (b)]; he has abstained from the use of alcohol for over two years because he has not consumed alcohol since February 2008 [Factual Finding 10, CCR 2912, subd. (f)]; Respondent has paid all fines and penalties ordered by the court [Factual Finding 4, CCR 2912, subd. (g)]; there is evidence of stability of family life as Respondent is in a serious and loving relationship with his girlfriend, Sandra Azar, whom he has lived with since 1999 [Factual Finding 8, CCR 2912, subd. (h)]; Respondent has also made bonafide efforts towards discharging any debts or monetary obligations to the victims of the vehicle accident by paying the restitution as ordered and offering his services as a general contractor to further make the victims whole for losses caused by his conduct [Factual Findings 4, 14, CCR 2912, subd. (j)]; There was significant evidence of Respondent's involvement in his community as evidenced by his financial contributions to charitable organizations as well as his volunteer efforts both at home and abroad through his business and church affiliations [Factual Findings 13-14, CCR 2912, subd. (l).]

Finally, Respondent, through credible and forthright testimony at hearing, his current employer, his psychologist and counselors in his alcohol treatment programs, and his AA sponsor, established that he has changed his attitude since the 2008 convictions and has embraced a structured and consistent program for rehabilitating himself from his addiction to alcohol. He fully admits his alcohol addiction and understands that he must work at overcoming the disease everyday for the rest of his life. Respondent's candid and honest testimony in this regard supports the conclusion that he has, and will continue to seek positive and constructive interventions to control his alcohol addiction [Factual Findings 8-15, CCR 2912, subd. (m).]³

12. Based upon the foregoing factors in rehabilitation, there is sufficient evidence to conclude that Respondent has established that he has been rehabilitated to a degree such that his retention of a properly restricted real estate salesperson license would not pose a significant risk to the public's health, safety and welfare.

³ On January 28, 2011, Respondent also had his criminal convictions dismissed pursuant to Penal Code sections 1203.3 and 1203.4 and his probation terminated early. Although the expungement occurred after the hearing in this case and the record was augmented with this evidence without objection by the Department, the expungement and early termination of probation was not determinative in concluding that Respondent was sufficiently rehabilitated to support retention of his salesperson license on a restricted basis. However, the evidence does corroborated the rehabilitation evidence and provides a factor in mitigation when determining the level of discipline in this case.

ORDER

All licenses and licensing rights of Respondent Kevin Leigh Frampton under the Real Estate Law are revoked; provided, however, 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:

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. 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.

4. 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:

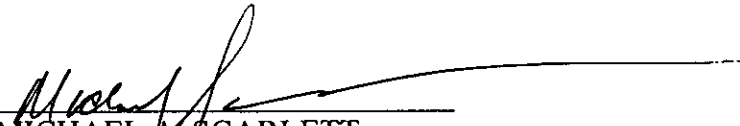
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) 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.

5. 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.

DATED: April 22, 2011



MICHAEL A. SCARLETT
Presiding Administrative Law Judge
Office of Administrative Hearings

5pc.
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FILED
JULY 21, 2009
DEPARTMENT OF REAL ESTATE

By CA

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-36127 LA
12 KEVIN LEIGH FRAMPTON,) A C C U S A T I O N
13 Respondent.)
14

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against KEVIN LEIGH FRAMPTON ("Respondent"), is informed and
18 alleges as follows:
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20 I

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in her official capacity.

24 II

25 At all times herein mentioned, Respondent was and
26 still is licensed and/or has license rights under the Real
27 Estate Law (Part 1 of Division 4 of the California Business and
28 Professions Code ("Code") as a real estate salesperson.

1 Respondent was first licensed as a real estate salesperson on
2 August 12, 1980.

3 III

4 On or about September 18, 2008, in the Superior Court
5 of California, Santa Barbara County, in Case No. 1258130,
6 Respondent was convicted of violating Vehicle Code Section
7 23153, subdivision (b) (driving with a .08% blood alcohol
8 causing injury) and Vehicle Code Section 20001, subdivision (a)
9 (leaving the scene of an accident involving an injury),
10 felonies. Said crimes bear a substantial relationship to the
11 qualifications, functions or duties of a real estate licensee
12 under Section 2910, Title 10, Chapter 6, California Code of
13 Regulations.

14 IV

15 The crimes of which Respondent was convicted, as
16 alleged in Paragraph III above, constitute cause under Code
17 Sections 490 and 10177(b) for the suspension or revocation of
18 all licenses and license rights of Respondent under the Real
19 Estate Law.

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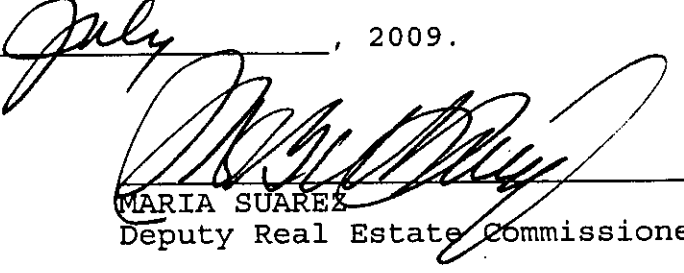
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent,
5 KEVIN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

9 Dated at Los Angeles, California

10 this 16th day of July, 2009.

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12
13 
14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
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23 cc: Kevin Leigh Frampton
24 Coldwell Banker Residential Brokerage Company
25 Maria Suarez
26 Sacto.
27
28