

BEFORE THE  
 DEPARTMENT OF REAL ESTATE  
 STATE OF CALIFORNIA

**FILED**  
 APR - 8 2005

DEPARTMENT OF REAL ESTATE

By *K. Contreras*

\* \* \*

In the Matter of the Application of )  
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 )  
 NANCY ELAINE PRICE, )  
 )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

NO. H-4155 SAC  
 N-2005010225

DECISION

The Proposed Decision dated March 17, 2005, 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 with the following exception:

Conditions "4", "5" and "6" of the Order of the Proposed Decision are not adopted and shall not be part of the Decision.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the

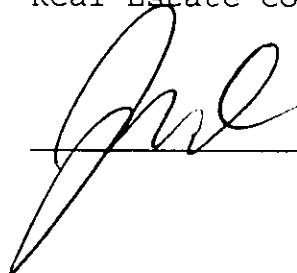
Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon  
on April 28, 2005.

IT IS SO ORDERED 4-7, 2005.

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

NANCY ELAINE PRICE,

Respondent.

Case No. H-4155 SAC

OAH No. N2005010225

**PROPOSED DECISION**

On February 14, 2005, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Diedre L. Johnson, Counsel, represented complainant.

Nancy Elaine Price, respondent, appeared in her own behalf.

Evidence was received, the record was closed and the matter was submitted.

**FACTUAL FINDINGS**

1. Charles W. Koenig (Koenig), Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Statement of Issues against respondent. Koenig acted in his official capacity.

2. On or about April 22, 2004, respondent filed an application for a real estate salesperson's license with the Department.

Respondent has not presented evidence of successful completion of the courses required by Business and Professions Code section 10153.4 to the Department.

3. On or about November 26, 1996, in the United States District Court for the District of Nebraska, in the matter entitled *United States of America v. Nancy Elaine Ryan, nee Nancy Price*, case number 94-00112M, respondent was convicted, on her plea of guilty,

of violations of Title 18, United States Code, Section 1956, subdivision (a)(1)(B)(ii) (conducting a financial transaction affecting interstate and foreign commerce) and Title 21, United States Code, Section 846 (conspiracy to distribute methamphetamine), felonies and crimes involving moral turpitude. Respondent has completed her jail time, paid her fines and successfully completed her five years of supervised release (probation).

Respondent's crime is substantially related to the qualifications, functions and duties of the licensed activity pursuant to the criteria enumerated in California Code of Regulations, title 10, section 2910.

Respondent admitted this conviction in response to question number 25 of the application and provided the required detailed information in section number 27 of the application.

The facts and circumstances of the offense are that between June and August of 1994, respondent conspired with her then husband James R. Ryan and others to distribute more than one kilogram of methamphetamine, a Schedule II controlled substance, and to launder \$34,250 of the proceeds of the illegal drug sales by depositing the money into a bank account and using the money to purchase equipment in a way designed to avoid the transaction reporting requirements.

4. Respondent is approximately 44 years of age. She married James R. Ryan in February of 1993, and they were arrested in about August of 1994. After he was released from prison in 1998, they moved to California. She separated from him in September of 2000 and divorced him in March of 2001.

Respondent accepts responsibility for her involvement in the crimes and is ashamed of what she did. She successfully completed probation, paid her fines and restitution and has tried to learn from the experience and change since the crimes. She has not been arrested for, charged with or convicted of any other crimes. She supported herself with gainful employment while on probation. She does not drink or use illegal drugs.

Respondent has worked for title companies in Nebraska, Iowa, and California since 1985. If respondent receives a license, she has a job with Century 21 Distinctive Properties and its broker, Linda Green.

5. Respondent had several previous employers or supervisors, co-workers and friends at the hearing to testify on her behalf.

Linda Green (Green), real estate broker, said respondent attended real estate classes taught by Green and told Green about her criminal conviction. Green testified that she has found respondent to be honest, caring and a diligent worker. If respondent receives a license, Green would supervise and mentor her.

James Stever, real estate broker, has known respondent for about seven years. He dealt with respondent when she worked for and represented a title company. He found her professional, honest, caring and helpful.

Teresa M. O'Brien (O'Brien) has known respondent for several years and worked with her at title companies. Respondent told O'Brien about her criminal conviction while they worked together. O'Brien has found respondent to be a good, upstanding person who is helpful to others. O'Brien received her real estate salesperson's license in October of 2001 and has encouraged respondent to seek a license so they could work together.

Mark Branson has known respondent for about three years. He was introduced to respondent by his sister-in-law, who has known respondent since 1998. He and respondent live together. He helped her study for the real estate licensing test. He said respondent is a hard working person of good character.

Linda McCoy (McCoy) has known respondent for several years. They met at work at a title company and became friends. She is aware of respondent's criminal conviction. McCoy said that respondent is a nice person who helps others.

Respondent had present at the hearing two past employers, a former co-worker and three friends who would also have testified about her honesty, reliability and good character.

6. Respondent presented several hearsay character reference letters from friends, former co-workers and former employers.

7. On the application, respondent admitted and provided detailed information regarding her criminal conviction. With her application and at the hearing, respondent accepted her responsibility for her crimes and her remorse for having committed them. She presented much evidence regarding how hard she has worked to change and rehabilitate herself since the criminal conviction, including testimonial and hearsay evidence regarding her good character, honesty and integrity. Based upon all of that evidence, respondent would appear to be a good candidate for a restricted license.

## LEGAL CONCLUSIONS

1. Respondent's crimes are substantially related to the licensed activity pursuant to California Code of Regulations, title 10, section 2910, subdivision (a), paragraphs: (8) an unlawful act that conferred an economic benefit on respondent; and (10), conduct demonstrating a repeated and willful disregard of law, as found in Finding number 3.

2. Respondent presented significant evidence of her apparently successful efforts to rehabilitate herself pursuant to the criteria found in California Code of Regulations, title 10, section 2911, subdivisions: (a) more than two years since the last criminal convictions; (e) successfully completed probation; (f) abstinence from the use of alcohol for over two years;

successfully completed probation; (f) abstinence from the use of alcohol for over two years; (g) payment of fines and penalties; (m) no longer associates with those involved with his commission of the crimes; and (n) provided substantial evidence of her change of attitude since the convictions, as found in Findings 4 through 7.

3. Cause for denial of respondent's application for a real estate salesperson's license was established for violation of Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), as found in Finding 3. However, there is cause to grant her a restricted license as found in Findings 4 through 7.

### ORDER

The application of Nancy Elaine Price for a real estate salesperson's license is denied; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to the 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 license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to Respondent.

3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and


(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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

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

6. Respondent shall submit quarterly reports under penalty of perjury on forms provided by the Real Estate Commissioner or in some other form as required by the Real Estate Commissioner, certifying and documenting whether there has been compliance with all conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made. Respondent shall appear in person for interviews with the Real Estate Commissioner's enforcement staff upon request at various intervals and with reasonable notice.

Dated: March 17, 2005

  
LEONARD L. SCOTT  
Administrative Law Judge  
Office of Administrative Hearings

FILED

JAN 20 2005

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By H. Contreras

*In the Matter of the Application of*

NANCY ELAINE PRICE,

}  
}

Case No. H-4155 SAC

OAH No. 2005010225

\_\_\_\_\_  
*Respondent*

**NOTICE OF HEARING ON APPLICATION**

**To the above named respondent:**

*You are hereby notified* that a hearing will be held before the Department of Real Estate at

**THE OFFICE OF ADMINISTRATIVE HEARINGS  
560 J STREET, SUITES 340/360  
SACRAMENTO, CA 95814**

on **FEBRUARY 14, 2005**, at the hour of **3:00 PM**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

*Dated:* January 14, 2005

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel



1 DEIDRE L. JOHNSON, Counsel  
2 SBN 66322  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6 Telephone: (916) 227-0789

FILED  
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DEPARTMENT OF REAL ESTATE

By *[Signature]*

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

11 \* \* \*

12 In the Matter of the Application of) )  
13 NANCY ELAINE PRICE, ) ) NO. H-4155 SAC  
14 Respondent. ) ) STATEMENT OF ISSUES  
15 ) )

16 The Complainant, CHARLES W. KOENIG, a Deputy Real  
17 Estate Commissioner of the State of California, for Statement of  
18 Issues against NANCY ELAINE PRICE (hereafter "Respondent"), is  
19 informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real  
22 Estate of the State of California for a real estate salesperson  
23 license on or about April 22, 2004.

24 II

25 Complainant, CHARLES W. KOENIG, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Statement of  
27 Issues in his official capacity and not otherwise.

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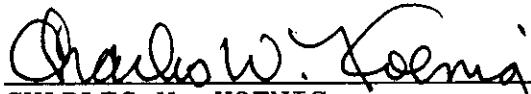
III

On or about November 26, 1996, in the United States District Court for the District of Nebraska, Respondent was convicted of a violation of 18 USC Section 1956(a)(1)(b)(ii) (Conducting a Financial Transaction Affecting Interstate and Foreign Commerce), a felony, and 21 USC Section 846 (Conspiracy to Distribute Methamphetamine), a felony, of the United States Code, crimes involving moral turpitude, which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The crimes of which Respondent was convicted, as alleged above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and/or 10177(b) of the California Business and Professions Code.

WHEREFORE, the Complainant prays that the 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 proper in the premises.

  
\_\_\_\_\_  
CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California  
this 19th day of November, 2004.