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FILED

JAN 28 2009

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 Application of
DAVID DEAN HERRERA,
Respondent.

No. H-4296 SAC

ORDER GRANTING UNRESTRICTED LICENSE

On September 14, 2005, a Decision was rendered herein denying the Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on September 27, 2005, and Respondent has operated as a restricted licensee since that time.

On August 15, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to
3 the following understanding and conditions:

4 1. The license issued pursuant to this order shall be deemed to be the first renewal
5 of respondent's real estate salesperson license for the purpose of applying the provisions of
6 Section 10153.4.

7 2. Within nine (9) months from the date of this order respondent shall:

8 (a) Submit a completed application and pay the appropriate fee for a real estate
9 salesperson license, and

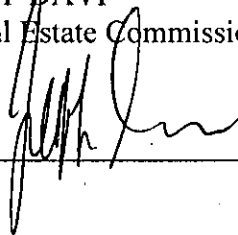
10 (b) Submit evidence of having taken and successfully completed the courses
11 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
12 for renewal of a real estate license.

13 3. Upon renewal of the license issued pursuant to this order, respondent shall
14 submit evidence of having taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
16 license.

17 This Order shall become effective immediately.

18 IT IS SO ORDERED 1-14-09

19 JEFF DAVI
20 Real Estate Commissioner

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1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789
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FILED
SEP 15 2005

DEPARTMENT OF REAL ESTATE

By Anne Shaver

7 **DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11 DAVID DEAN HERRERA

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27)
Respondent)

No. H- 4296 SAC

**STIPULATION AND
WAIVER**

15 I, DAVID DEAN HERRERA, respondent herein, do hereby affirm that I have applied to the
16 Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have
17 satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee
18 therefor.

19 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
20 filed by the Department of Real Estate on June 8, 2005, in connection with my application for a real estate
21 salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of
22 Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other
23 allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate
24 salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of
25 Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory
26 showing that I meet all the requirements for issuance of a real estate salesperson license. I further
27 understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

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

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

13 I further understand that the following conditions, limitations, and restrictions will attach to a
14 restricted license issued by the Department of Real Estate pursuant hereto:

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

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

4 a. That broker has read the Statement of Issues which is the basis for the issuance of the
5 restricted license; and

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

9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months
11 of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of
12 successful completion, at an accredited institution, of two of the courses listed in Section
13 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real
14 estate finance, or advanced real estate appraisal. If I fail to timely present to the Department
15 satisfactory evidence of successful completion of the two required courses, the restricted license
16 shall be automatically suspended effective eighteen (18) months after the date of its issuance.
17 Said suspension shall not be lifted unless, prior to the expiration of the restricted license, I have
18 submitted the required evidence of course completion and the Commissioner has given written
19 notice to Respondent of the lifting of the suspension.

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

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 8/22/2005

4 Dated

5 DAVID DEAN HERRERA Respondent

6
7 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by
8 respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and
9 truthfulness of respondent need not be called and that it will not be inimical to the public interest to issue a
10 restricted real estate salesperson license to respondent.

11 Therefore, **IT IS HEREBY ORDERED** that a restricted real estate salesperson license be issued to
12 respondent DAVID DEAN HERRERA if respondent has otherwise fulfilled all of the statutory
13 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in

14 This Order is effective immediately.

15 IT IS SO ORDERED

16 9-14-05
17 JEFF DAVIS
18 Real Estate Commissioner

1 JOHN VAN DRIEL, Counsel (SBN 84056)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
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7
8 Telephone: (916) 227-0789
9 -or- (916) 227-0787 (Direct)

FILED
JUN -8 2005
DEPARTMENT OF REAL ESTATE
By L. Frost

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 DAVID DEAN HERRERA,) No. H-4296 SAC
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, Charles Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against DAVID DEAN HERRERA (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Complainant makes this Statement of Issues in his
21 official capacity and not otherwise.

22 II

23 Respondent made application to the Department of Real
24 Estate of the State of California for a real estate salesperson
25 license on or about March 8, 2005 with the knowledge and
26 understanding that any license issued as a result of said

27 ///

1 application would be subject to the conditions of Section 10153.4
2 of the Business & Professions Code.


3 III

4 On or about October 16, 1998, in the Sacramento County
5 Superior Court, Respondent was convicted of a violation of
6 Section 245(a)(1) of the California Penal Code (assault with a
7 deadly weapon), a felony and a crime which bears a substantial
8 relationship under Section 2910, Title 10, California Code of
9 Regulations; to the qualifications, functions, or duties of a
10 real estate licensee.

11 IV.

12 The crime of which Respondent was convicted, as alleged
13 in Paragraph III, constitutes cause for denial of Respondent's
14 application for a real estate license under Sections 480(a) and
15 10177(b) of the California Business and Professions Code.

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

22
23
24 
25 CHARLES KOENIG
26 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,
27 this 31st day of May, 2005.