

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

AUG - 1 2008

DEPARTMENT OF REAL ESTATE

* * *

By R Henry

In the Matter of the Accusation of)
SCOTT H. WEIDE,)
Respondent.)

NO. H-9963 SF
OAH NO. N-2008040674

DECISION

The Proposed Decision dated June 28, 2008, 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 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 AUG 21 2008

IT IS SO ORDERED

7-30-08

JEFF DAVI
Real Estate Commissioner

[Signature]

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

AUG - 1 2008

DEPARTMENT OF REAL ESTATE

By *L. Henry*

In the Matter of the Accusation of:

SCOTT H. WEIDE,

Respondent.

Case No. H-9963 SF

OAH No. 2008040674

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on June 25, 2008.

David B. Seals, Counsel, represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, State of California.

Respondent Scott H. Weide was present and represented himself.

The matter was submitted on June 25, 2008.

FACTUAL FINDINGS

1. Complainant Charles W. Koenig, Deputy Real Estate Commissioner, issued the accusation in his official capacity.
2. Respondent Scott H. Weide holds a real estate salesperson license that was issued by the department.
3. On September 28, 2006, in the Superior Court of California, County of Contra Costa, respondent was convicted, on his plea of no contest, of a violation of Penal Code sections 236/237 (false imprisonment), a misdemeanor that involves moral turpitude and is substantially related to the duties of a real estate licensee. Imposition of sentence was suspended and respondent was placed on court probation for three years under terms and conditions that included payment of fines of \$600, performing 20 hours of community service, and attendance in a domestic violence program for 52 weeks. Respondent paid the fines, performed 20 hours of community service, and completed 52 weeks in a domestic violence program. He remains on probation.

4. Respondent's offense occurred on May 31, 2006. He was at home talking on the telephone. Tawni Hughes, respondent's girlfriend at the time, arrived, overheard his conversation and thought he was speaking with an old girlfriend. An argument ensued and turned into a mutually physical altercation. Respondent acknowledges that during the altercation he grabbed Hughes, pushed her down, blocked the door to prevent her from leaving the house, and threw her car keys over the neighbor's fence. Hughes, in a statement to the police, acknowledged that she snapped respondent's cell phone in half, threw a glass bottle of Sobe fruit beverage at him, and bit him.

Respondent and Hughes ended their relationship about 13 months after the incident, in late August 2007.

5. Respondent accepts responsibility for his offense. He has no other criminal convictions, either before or after the September 28, 2006, conviction. The incident appears to have been aberrational. He is no longer in a relationship with Hughes.

6. Respondent learned much about anger management in the domestic violence program he attended after his conviction. A January 31, 2008, report to the Contra Costa Probation Department from respondent's domestic violence program ranked respondent as "excellent" in accepting responsibility for his behavior, cooperating and participating in the program, and understanding the skills of positive conflict resolution. It also remarked on respondent's good attitude.

7. Respondent married Jessica Anne Jensen in March 2008. Jensen testified on respondent's behalf, describing him as a very good person and a "calm and collected" individual who benefited from anger management training. Jensen described herself as "quite a handful" and having a temper and noted that respondent remains calm even when she is angry. Respondent and Jensen appear to be happily married and in a stable relationship. They are also colleagues at Pulte Homes, where respondent is employed.

8. Kristi Lee Fry is an escrow manager at Pulte Homes and has worked for eight years with respondent. She described respondent as an individual of good character, successful and well-respected in the profession. Respondent completed Critical Path training and is a member of the Top Gun Council; both are considered high honors for real estate professionals. Fry further described respondent as a good mentor and trainer for newer members of the profession.

9. Paul D. Renker, Vice President of Sales and Marketing, Pulte Home Corporation, wrote a letter dated June 24, 2008, in support of respondent. Renker states that he has known respondent most of his life and has been his broker since January 7, 1998. Renker describes respondent as a "consummate professional" who has gone out of his way to mentor, train, and teach other real estate professionals. Renker further describes respondent

as well known for his caring and giving personality, and highly respected by his peers and co-workers.

LEGAL CONCLUSIONS

1. Under Business and Professions Code sections 490 and 10177, subdivision (b), the commissioner may suspend or revoke the license of a real estate licensee who has been convicted of a crime involving moral turpitude. Respondent's September 2006 conviction was for a crime of moral turpitude. The conviction, moreover, is substantially related to the qualifications, functions and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) Cause exists to suspend or revoke respondent's license pursuant to sections 490 and 10177, subdivision (b).

2. The department's regulations set forth criteria for evaluating the rehabilitation of a licensee. (Cal. Code Regs., tit. 10, § 2912.) About a year and nine months have elapsed since respondent's conviction. He remains on probation but has complied fully with the terms of his probation thus far. His association with Hughes has ended. Respondent recently married and has a stable family life. He is responsibly employed in the real estate industry and is well-respected by his employer and co-workers. Respondent learned much from the domestic violence course he attended and demonstrated a positive change in attitude from that which existed at the time of his offense. The offense appears to have been aberrational and respondent had no previous or subsequent criminal convictions. Complainant acknowledged that allowing respondent to practice with a restricted license would be the proper resolution of this case. It would not be against the public interest to allow respondent to practice real estate with a restricted license.


ORDER

All licenses and licensing rights of respondent Scott H. Weide under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 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 Business and Professions Code section 10156.7 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 or 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 he has, since the most recent issuance of an original or renewed 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 he presents such evidence. The commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: June 28, 2008


STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

1 DAVID B. SEALS, Counsel (SBN 69378)
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FILED
APR -5 2007
DEPARTMENT OF REAL ESTATE
By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SCOTT H. WEIDE,) NO. H-9963 SF
13 Respondent.) ACCUSATION
14)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against SCOTT H. WEIDE (hereinafter "Respondent") is
18 informed and alleges as follows:

19 I

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

23 II

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

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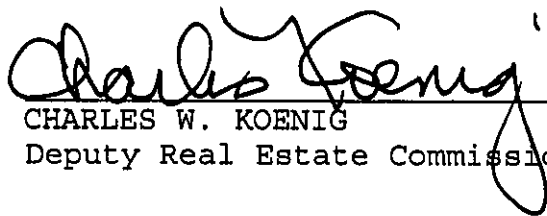
III

On or about September 28, 2006, in the Superior Court of California, County of Contra Costa, Respondent was convicted of violation of California Penal Code Section 236/237 (False Imprisonment), a misdemeanor and a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations (hereinafter the "Regulations") to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 10177(b) of the Code, in conjunction with Section 490 of the Code, for the suspension or revocation of all licenses and license rights of Respondent 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 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 3rd day of April, 2007.