

REAL ESTATE COMMISSION:
LICENSES:

(1) the Real Estate Commission cannot grant a license to a person whose license has been revoked under Section 339.110, RSMo 1959; (2) the Real Estate Commission can grant a license to a person whose license has been revoked under Section 339.100, RSMo 1959, if such person makes proper application and meets the qualifications of Section 339.040, RSMo 1959.

OPINION NO. 48

April 10, 1969

Mr. Marvin W. Camp
Executive Secretary
Missouri Real Estate
Commission
222 Monroe Street
Jefferson City, Missouri 65101



Dear Mr. Camp:

This is in answer to your request for an official opinion of this office concerning the question whether the Real Estate Commission can grant a real estate license to a person whose license has previously been revoked.

Section 339.040, RSMo 1959, which provides the qualifications for a real estate license, makes no mention that a person whose license has previously been revoked is not qualified for a license. Therefore, the answer to your question depends on the effect of a revocation provided for in both Section 339.100, RSMo 1959, and Section 339.110, RSMo 1959.

Section 339.110 provides as follows:

"When during the term of any license issued by the commission the licensee shall be convicted in a court of competent jurisdiction in the state of Missouri or any state, including federal courts, of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense or offenses and a duly certified or exemplified copy of the record in such proceedings shall be filed with the commission, the commission shall revoke forthwith the license by it theretofore issued to the licensee so convicted. No

Mr. Marvin W. Camp

license shall be issued by the commission to any person known by it to have been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense or offenses, or association or copartnership of which such person is a member, or to any association or copartnership of which such person is an officer, or in which as a stockholder such person had or exercises a controlling interest either directly or indirectly."

It is our opinion that Section 339.110 explicitly prohibits the Commission from issuing a license to any person convicted of the listed offenses and, therefore, in answer to your question, the Commission cannot issue a license to any person whose license has previously been revoked for such offenses.

Section 339.100 empowers the Commission to suspend or revoke licenses for eleven listed causes. This section reads in part as follows:

"The commission may upon its own motion, and shall upon written complaint filed by any person, investigate the business transactions of any real estate broker or real estate salesman and shall have the power to suspend or revoke any license obtained by false or fraudulent representation or if the licensee is performing or attempting to perform any of the following acts or is deemed to be guilty of: * * *"

We find no provision in Chapter 339 which discusses the effect of a suspension or revocation under Section 339.100.

The terms suspend and revoke are distinguishable. *Hanson v. State Board of Medical Examiners et al*, 220 Iowa 357, 260 N. W. 68, 70; *Martinka v. Hoffman*, 214 Minn. 346, 9 N.W.2d 13, 17; Webster's Third New International Dictionary. To suspend as directed by Section 339.100 is to cause to cease, temporarily or for a time prescribed, *Reynolds v. State Board of Equalization*, Cal.App., 162 P.2d 735, 739; Webster's Third New International Dictionary, where to revoke under the statute is to annul or terminate that which has been granted. *Reynolds v. State Board of Equalization*, 29 Cal.2d 137, 173 P.2d 551, 553; *Burns v. State*, Tex.Civ.App., 76 S.W.2d 172; Webster's Third New International Dictionary.

Unless there is a specific statutory prohibition as in Section 339.110, a new license can be granted upon proper application to a person who has previously had a license revoked. *Burns v. State*,

Mr. Marvin W. Camp

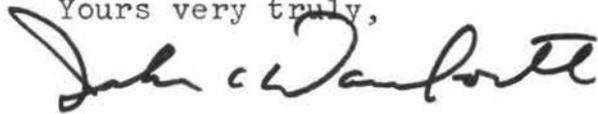
supra; State v. Otterholt, 234 Iowa 1286, 15 N.W.2d 529, 532; Hanson v. State Board of Medical Examiners, supra, l.c. 260 N.W. 70. Accordingly, it is our opinion that the Commission can grant a real estate license to a person whose license has been revoked under Section 339.100 if such person makes proper application and meets the qualifications of Section 339.040.

CONCLUSION

It is the opinion of this office that: (1) the Real Estate Commission cannot grant a license to a person whose license has been revoked under Section 339.110, RSMo 1959; (2) the Real Estate Commission can grant a license to a person whose license has been revoked under Section 339.100, RSMo 1959, if such person makes proper application and meets the qualifications of Section 339.040, RSMo 1959.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly,



JOHN C. DANFORTH
Attorney General