

FILED  
JAN 27 2005

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
By K. Contreras

\* \* \*

In the Matter of the Accusation of )  
GORDON ALBERT LANIGAN, )  
Respondent. )

NO. H-4049 SAC  
OAH NO. N-2004080382

DECISION

The Proposed Decision dated December 27, 2004, 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 February 16, 2005.

IT IS SO ORDERED 1-11, 2005.

JEFF DAVI  
Real Estate Commissioner

[Signature]

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GORDON ALBERT LANIGAN,

Respondent.

Case No. H-4049 SAC

OAH No. N2004080382

**PROPOSED DECISION**

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on December 3, 2004.

Deidre L. Johnson, Staff Counsel, Department of Real Estate, State of California, represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, State of California.

Jones, Kerr & Driscoll, Attorneys at Law, by C. Breck Jones, Esq., represented respondent Gordon Albert Lanigan, who appeared.

Evidence was received and the matter submitted on December 3, 2004.

**FACTUAL FINDINGS**

1. On July 19, 2004, complainant Charles W. Koenig, Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Accusation in his official capacity against Gordon Albert Lanigan (respondent).
2. At all times relevant, respondent is licensed and/or has licensing rights under the Real Estate Law<sup>1</sup> as a real estate salesperson (No. 01160434).
3. On September 26, 2001, in the Superior Court of California, County of Yolo, respondent, then 51, was convicted of a violation of Penal Code section 602.5 (unauthorized

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<sup>1</sup> Part 1 of Division 4 of the Business and Professions Code.

entry of a dwelling house), a crime involving moral turpitude<sup>2</sup> substantially related to the qualifications, functions and duties of a real estate licensee. Respondent was ordered to pay fines amounting to \$145.00.

4. In an administrative disciplinary proceeding, the hearing does not need to "be conducted according to technical rules relating to evidence and witnesses."<sup>3</sup> Indeed, hearsay is admissible; however, upon a properly interposed objection, it may be limited in scope.<sup>4</sup> In balancing the respective evidence provided by each party, the undersigned applied, in part, the criteria set forth at Evidence Code sections 412,<sup>5</sup> 413,<sup>6</sup> 780,<sup>7</sup> 786,<sup>8</sup> 790<sup>9</sup> and 791<sup>10</sup> in ascertaining the relative convincing force of presented evidence. To that end, it is established that:

- A. Respondent, employed as a real estate licensee, assisted a client, Mike Robinson, in the management of a property located at 121 Ashley Avenue, Woodland, California (the property). Within the property was a

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<sup>2</sup> *Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.

<sup>3</sup> Government Code section 11512, subdivision (c).

<sup>4</sup> Government Code section 11513, subdivision (d). Respondent's representative properly and timely objected herein. Accordingly, the crime report submitted by complainant had limited evidentiary value.

<sup>5</sup> Evidence Code section 412 provides, "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."

<sup>6</sup> Evidence Code section 413 provides, "In determining what inferences to draw from the evidence or facts in the case against a party, the trier of fact may consider, among other things, the party's failure to explain or to deny by his testimony such evidence or facts in the case against him, or his willful suppression of evidence relating thereto, if such be the case."

<sup>7</sup> Evidence Code section 780 provides, in pertinent part: "Except as otherwise provided by statute, the court may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at the hearing, including but not limited to any of the following: (a) His demeanor while testifying and the manner in which he testifies. (b) The character of his testimony. (c) The extent of his capacity to perceive, to recollect, or to communicate any matter about which he testifies. (d) The extent of his opportunity to perceive any matter about which he testifies. (e) His character for honesty or veracity or their opposites. (f) The existence or nonexistence of a bias, interest, or other motive. (g) A statement previously made by him that is consistent with his testimony at the hearing. (h) A statement made by him that is inconsistent with any part of his testimony at the hearing. (i) The existence or nonexistence of any fact testified to by him. (j) His attitude toward the action in which he testifies or toward the giving of testimony. (k) His admission of untruthfulness."

<sup>8</sup> Evidence Code section 786: "Evidence of traits of his character other than honesty or veracity, or their opposites, is inadmissible to attack or support the credibility of a witness."

<sup>9</sup> Evidence Code section 790: "Evidence of the good character of a witness is inadmissible to support his credibility unless evidence of his bad character has been admitted for the purpose of attacking his credibility."

<sup>10</sup> Evidence Code section 791: "Evidence of a statement previously made by a witness that is consistent with his testimony at the hearing is inadmissible to support his credibility unless it is offered after: (a) Evidence of a statement made by him that is inconsistent with any part of his testimony at the hearing has been admitted for the purpose of attacking his credibility, and the statement was made before the alleged inconsistent statement; or (b) An express or implied charge has been made that his testimony at the hearing is recently fabricated or is influenced by bias or other improper motive, and the statement was made before the bias, motive for fabrication, or other improper motive is alleged to have arisen."

tenant, Diana Crabtree, who tendered monthly rent payments to respondent. Upon receipt of Ms. Crabtree's rent payments, respondent forwarded the payments to Mr. Robinson, the owner and landlord of the property.

- B. Respondent's acknowledged purpose in engaging in the property management activities set forth in Finding 4.A was to eventually obtain a future listing of the property when Mr. Robinson decided to sell.
- C. Subsequently, respondent did successfully obtain a listing of the property from Mr. Robinson. While respondent was marketing the property, a prospective buyer sought to inspect it. Respondent repeatedly sought by telephone and mail to contact Ms. Crabtree to elicit her approval to permit ingress into the property for the prospective buyer's inspection. He was unsuccessful in eliciting any response from Ms. Crabtree.
- D. Unsure as to whether Ms. Crabtree resided on the property or had abandoned her tenancy, and seeking to inspect the property's condition prior to the prospective buyer's inspection, respondent went to the property on August 2, 2001. Knocking on the door, he received no response from within. While standing outside on the porch, he telephoned Ms. Crabtree's number, he received no response. Still unsure as to whether she still resided on the property, he used his key to enter. From within, and following entry, he heard Ms. Crabtree exclaim that she was undressed. Realizing she still remained within the residence, he immediately left the interior of the home and returned to the porch.
- E. Ms. Crabtree subsequently met respondent on the porch. Respondent explained his purpose. She did not expressly consent to his entry or give permission for the prospective buyer's inspection. She subsequently reported respondent's entry to the police.
- F. On August 2, 2001, when respondent entered Ms. Crabtree's dwelling, respondent was employed by Lyon & Associates as a real estate salesperson. Subsequently returning to his office, respondent did not disclose what had transpired to his broker or the Office Manager.
- G. Having received rents for the property, respondent failed to disclose, at any time, such receipts or to log such receipts with his broker or the Office Manager.
- H. When contacted by the Woodland Police Department on August 2, 2001,

respondent gave a statement of the events occurring at the property. Respondent did not disclose the police contact to his broker or Office Manager.

- I. On September 11, 2001, respondent presented himself to the Woodland Police Department for booking relative to the events of August 2, 2001. He did not inform his broker or Office Manager.
  - J. On September 26, 2001, respondent was convicted for the conduct occurring on August 2, 2001. He paid his fine. He did not inform his broker or Office Manager.
  - K. Sometime after his conviction, while still remaining with the same broker, Lyon & Associates, respondent transferred from the Davis office to another office in the Sacramento area.
  - L. In March 2004, a Department representative contacted respondent to inquire about his conviction and the circumstances underlying the conviction. Respondent did not inform his broker or Office Manager.
  - M. On March 26, 2004, respondent prepared and submitted a written statement to the Department concerning the events of August 2, 2001. He did not inform his broker or Office Manager. In his statement to the Department, respondent characterized Ms. Crabtree's tenancy as "illegal" and stated that she "had no right to even charge me." In a separate submission to the Department, respondent related that Ms. Crabtree was "2 months behind in rent and the owner gave them an eviction notice and he thought they were gone – no phone response and then I was given keys to check out condition to market property."
  - N. On August 30, 2004, the Department mailed the Accusation to respondent and his employing broker, Lyon & Associates. Immediately upon receipt of the Accusation, respondent's broker, Michael Lyon, contacted respondent. Mr. Lyon, wholly unaware of the conviction or the underlying facts and circumstances, was understandably and responsibly alarmed and concerned. He immediately directed a review of the applicable paperwork concerning the matter. Characterizing respondent's August 2, 2001, conduct as "very stupid", Mr. Lyon never the less testified to the laudable work ethic and professionalism of his agent and salesperson.
5. Respondent, now 54, readily acknowledges his singular conviction and

underlying errant conduct. A high school graduate, he relates an unawareness of the particularities common to property management at the time of the events of August 2, 2001. Gaining greater insight from his conviction, he readily acknowledges the limitations of his fund of knowledge and experience, and comprehends that property management requires particular training, experience and education.

*Circumstances in Aggravation*

6. Respondent repeatedly engaged in various violations of the Real Estate Law.

- A. Respondent received rents, on behalf of a client<sup>11</sup> which constitutes property management activities. Respondent failed to disclose such receipts to his broker.<sup>12</sup>
- B. Respondent, notwithstanding the receipt of such rents, failed to properly have the checks logged.<sup>13</sup>
- C. Respondent received rents and engaged in other property management activities for Mr. Robinson in expectation of a compensation.<sup>14</sup>

7. Respondent repeatedly failed to repeatedly disclose his receipt of rents, entry into Ms. Crabtree's dwelling, the ensuing police investigation, his Superior Court conviction, and the subsequent Department investigation to his broker or Office Manager. Mindful that the events of August 2, 2001 occurred in the context of respondent's licensed status, his failure to self-disclose compels particular scrutiny and concern of his judgment.

8. Respondent presented various witnesses attesting to his professional or personal character. What emerged, however, was a lack of knowledge by many witnesses of the continuing failure to disclose his errant conduct until after the filing of the Accusation or mere weeks prior to this proceeding.

9. Respondent displayed an evident deficiency in his training relating to property management and real estate office administration.

10. Although respondent submits that the conduct underlying his conviction occurred within the span of minutes, the conduct following such conviction; namely, failure to disclose occurred hours, days, weeks and months after the incident. Moreover, respondent, a real estate salesperson, engaged in activities, without the knowledge or consent of his broker,

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<sup>11</sup> Business and Professions Code section 10131, subdivision (b).

<sup>12</sup> Business and Professions Code section 10145, subdivision (c).

<sup>13</sup> Business and Professions Code section 10145, subdivision (c).

<sup>14</sup> Business and Professions Code section 10131.

reserved to a Department licensed real estate broker.<sup>15</sup>

11. Respondent's various submissions to the Department minimized his complicity and attempted to shift responsibility for his errant conduct to the victim of his trespass.

*Circumstances in Mitigation*

12. The facts and circumstances underlying respondent's conviction occurred more than two years ago.

13. Respondent has no other record of discipline

14. Respondent has married and participates in various community and church activities.

15. Respondent possesses the clear and abiding support of his wife, a real estate professional, who clearly disdained respondent's August 2, 2001 conduct.

16. Respondent, to his credit, has the support of his broker. Apprised of the events, his broker acknowledges the proclivity of his agent and salesperson for privacy and the ensuing shame this disciplinary proceeding and the underlying conviction and facts have borne. His broker sponsors additional training to his associates, including respondent, to expand their fund of knowledge.

17. Respondent has clearly developed circumspection into the impropriety of his conduct, including unsupervised property management activities, and its nexus to his Department licensure.

18. Respondent seeks licensure to maintain his livelihood. Partnering with his wife, they engage largely in real estate residential sales.

19. Respondent expressed and displayed sincere remorse.

20. What emerges in this proceeding is a relatively new and developing Department licensee who, on August 2, 2001, possessed limited experience and training and thereupon embarked on a course of conduct that became further compounded by failing to timely and properly advise either his Office Manager or broker.

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<sup>15</sup> See footnotes 11 through 15, inclusive.

## LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend the real estate salesperson license of respondent for a criminal conviction involving moral turpitude substantially related to the qualifications, functions or duties of a Department licensee pursuant to the provisions of Business and Professions Code sections 490, and 10177, subdivision (b), and as set forth in Findings 2 through 5, inclusive.

2. A fundamental objective of the Department is to protect the public, the licensed profession, maintain integrity, high standards, and preserve public confidence in the Department's licensure process.<sup>16</sup>

Respondent's conviction and underlying circumstances clearly demonstrated conduct lacking in guile. Of import, however, is the repeated exercise of poor judgment in failing to apprise his broker of not only his errant intrusion into Ms. Crabtree's residence but the ensuing investigation and conviction. Consistent with such poor judgment was respondent's ongoing receipt of rents. While admittedly he acted as a conduit between the tenant and landlord, his license (not to mention his employment) imposed particular affirmative duties. He wholly disregarded such duties. Notwithstanding such repeated derelictions, various Department licensees testified to respondent's laudable work ethic.

The conviction and underlying conduct established herein would not ordinarily warrant an outright revocation of a salesperson's license. Respondent, however, poses particularly difficulty for the undersigned. It is apparent that he has learned from the incident of August 2, 2001. That alone would compel no less than a restricted license. More troubling is his active concealment and inappropriate aggravating misconduct. His broker attests that respondent has become particularly forthcoming; however, it has not escaped the undersigned that until August 2004, his broker was wholly unaware of any misconduct by respondent.

Real estate professionals have affirmative duties to disclose facts in the discharge of their obligations to clients. Indeed, it is a fundamental principle that real estate licensees, as agents of their principals, are fiduciaries. Respondent's repeated concealments do not demonstrate a character that is readily forthcoming.

In balancing the evidence proffered, it is clear that respondent has presented mitigation worthy of salutary consideration. Nevertheless, while compelled by the evidence to permit respondent the capacity to continue to engage in his profession, particular conditions will be ordered to effectuate a rehabilitation that will address those areas of concern raised by this proceeding. A period of suspension shall be directed to compel

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<sup>16</sup> *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.



respondent's self-reflection into the import of his errant conduct and to commence and undertake, without distraction, directed rehabilitative efforts.

Mindful of the conduct underlying the Accusation (Legal Conclusion 1) and the circumstances in aggravation (Findings 6 through 9) and mitigation (Findings 10 through 18); the public interest will not be adversely affected by the continued issuance of a properly conditioned real estate salesperson's license to respondent.

## ORDER

All licenses and licensing rights of respondent Gordon Albert Lanigan (No. 01160434) under the Real Estate Law are revoked; provided, however, a restricted real estate license shall be issued to him 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 said 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 prior to hearing in the event of:
  - (a) The conviction of respondent (including a plea of nolo contendere or admission or determination of a violation of court probation) 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. Any restricted real estate license issued to respondent pursuant to this Decision shall be suspended for a period of 120 days from the issuance of said restricted license; provided, however, that 60 days of said suspension shall be stayed for four years from the date of issuance of the restricted license or effective date of this Decision, whichever is later; provided, further, that if respondent petitions, the remaining 60 days (or a portion thereof) shall be stayed upon condition that:

- (a) Respondent pays a monetary penalty pursuant to Business and Professions Code section 10175.2 at the rate of \$100 for each day of the suspension for a total monetary penalty of \$6,000.
- (b) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter or issuance of the restricted license, whichever is sooner.
- (c) No further cause for disciplinary action against the real estate license of respondent occurs within four years from the effective date of the Decision in this matter.
- (d) If respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.
- (e) If respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of respondent occurs within two years from the effective date of the Decision, the stay hereby granted shall become permanent.
3. 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 four years have elapsed from the date of issuance of the restricted license or effective date of this Decision, whichever is later.
4. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by any 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 granted respondent a restricted license; and
- (b) That the employing broker will carefully review all transaction

documents prepared by the restricted licensee for which a license is required.

(c) That the employing broker will exercise close supervision over the performance of 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

7. Respondent shall, within twelve (12) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of attendance and successful completion at an accredited institution<sup>17</sup> of Property Management, and Real Estate Office Administration. 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 twelve (12) 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.

8. Respondent shall provide a true copy of the Decision to the Chief Executive Officer at every Board of Realtors where privileges or membership are

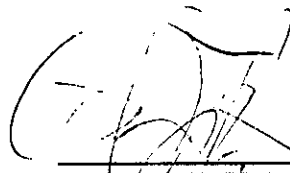
<sup>17</sup> For purposes of fully effectuating respondent's rehabilitation, "accredited institution" shall only mean "a college or university which is accredited by the Western Association of Schools and Colleges, or by any other regional accrediting agency recognized by the United States Department of Education." See Business and Professions Code section 10153.5, subdivision (a). Business and Professions Code section 10153.5, subdivision (b)'s reference to "curriculum equivalent" is not applicable to respondent.

extended to him, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Commissioner or his/her designee within 15 calendar days of the effective date of this Decision.

9. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in respondent's custody and control and periodic summaries of salient information concerning each real estate transaction in which he engaged during the period covered by the report.

Dated: \_\_\_\_\_

12-23-04



\_\_\_\_\_  
JAIME RENÉ ROMÁN  
Administrative Law Judge  
Office of Administrative Hearings

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STATE OF CALIFORNIA  
SAN FRANCISCO OFFICE  
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FILED  
AUG 30 2004

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

DEPARTMENT OF REAL ESTATE

By Patricia Conteras

*In the Matter of the Accusation of*

GORDON ALBERT LANIGAN,

} Case No. H-4049 SAC

} OAH No. N-2004080382

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

**NOTICE OF HEARING ON ACCUSATION**

**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, CALIFORNIA 95814**

on **DECEMBER 3, 2004**, at the hour of **9:00 AM**, or as soon thereafter as the matter can be heard, upon the Accusation 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.

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: AUGUST 27, 2004

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel

RE 501 (Rev. 8/97)

1 DEIDRE L. JOHNSON, Counsel  
SBN 66322  
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FILED  
JUL 19 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 GORDON ALBERT LANIGAN, ) NO. H-4049 SAC  
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 GORDON ALBERT LANIGAN, is informed and alleges  
18 as follows:

19 I

20 GORDON ALBERT LANIGAN (hereafter Respondent) is  
21 presently licensed and/or has license rights under the Real  
22 Estate Law, Part 1 of Division 4 of the California Business and  
23 Professions Code (hereafter Code) as a real estate salesperson.

24 II

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

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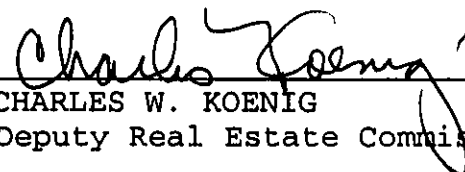
III

On or about September 26, 2001, in the Superior Court of the State of California, County of Yolo, Respondent was convicted of violation of Penal Code Section 602.5 (UNAUTHORIZED ENTRY OF DWELLING HOUSE), a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910 of Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and/or 10177(b) of the Code for the suspension or revocation of all license(s) 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 license(s) 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 15<sup>th</sup> day of July, 2004.