

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
G. K. LAMBERT, INC., dba)	NO. H-2312 SAC
SIERRA BAY REALTORS;)	
GERALD K. LAMBERT individually)	
and as Designated Officer of)	
G. K. LAMBERT, INC.,)	
)	
Respondents.)	

PROPOSED DECISION

This matter was presided over as an uncontested case by Robert E. McCabe, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Sacramento, California, on January 20, 1989.

DAVID A. PETERS Counsel, represented the Complainant.

No appearance was made by or on behalf of Respondent G. K. LAMBERT, INC. or Respondent GERALD K. LAMBERT.

The matter was submitted upon written Stipulation of the parties. Pursuant to the Stipulation, the following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

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

II

Respondent G. K. LAMBERT, INC., dba SIERRA BAY REALTORS (hereinafter "Respondent G. K. LAMBERT, INC.") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "Code"). At all times material herein, Respondent G. K. LAMBERT, INC. was licensed as a real estate corporation by and through its designated officer Respondent GERALD K. LAMBERT.

III

Respondent GERALD K. LAMBERT (hereinafter "Respondent LAMBERT") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code). At all times material herein, Respondent LAMBERT was licensed as a real estate broker and served as the designated officer of Respondent G. K. LAMBERT, INC.

IV

On or before June 12, 1985, Respondent G. K. LAMBERT, INC. and Respondent LAMBERT acting on behalf of another or others and in expectation of compensation managed certain rental real properties located in or near Lake Tahoe, California.

V

During the course of the property management activities described in Paragraph IV, Respondents G. K. LAMBERT, INC. and LAMBERT received and disbursed funds held in trust on behalf of another or others.

VI

In connection with the collection and disbursement of said trust funds, Respondents G. K. LAMBERT, INC. and LAMBERT failed to deposit and maintain said funds in said bank account in such manner that as of June 12, 1985, there was a shortage of \$7,428.17 of trust funds in said bank account.

VII

Respondents G. K. LAMBERT, INC. and LAMBERT failed to obtain prior written consent of their principals for the reduction of the aggregate balance of trust funds in said bank account to an amount less than the existing aggregate trust fund liability to the owners of said funds.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondents exist pursuant to Sections 2830 and 2832.1 of Title 10, California Code of Regulations and Business and Professions Code Section 10145 in conjunction with Business and Professions Code Section 10177(d).

II

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

1. The real estate broker corporation license and all license rights of Respondent G. K. LAMBERT, INC. are hereby revoked.

2. The real estate broker license and all license rights of Respondent LAMBERT are hereby revoked. However, a restricted real estate broker license shall be issued to Respondent LAMBERT pursuant to Business and Professions Code Section 10156.5 if Respondent LAMBERT makes application therefore and pays to the Department the appropriate fee for said license within sixty (60) days of the effective date of this decision upon the following terms and conditions:

A. Respondent LAMBERT shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the restrictions of the restricted license, until one (1) year has elapsed from the date of issuance of the restricted license.

B. Respondent LAMBERT shall, within nine (9) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he 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 LAMBERT fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent LAMBERT presents such evidence. The Commissioner shall afford Respondent LAMBERT the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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

D. Any restricted license issued to Respondent LAMBERT may be suspended prior to hearing by order of the Commissioner in the event that Respondent LAMBERT is convicted (including a plea of nolo contendere) of any crime which bears a substantial relationship to Respondent LAMBERT's fitness to be a real estate licensee or as otherwise provided by law.

E. Respondent LAMBERT shall comply with all of the laws to which he is subject, including all the provisions of the California Real Estate Law, the Subdivided Lands Law and all Regulations of the Real Estate Commissioner.

F. The restricted real estate broker license issued to Respondent LAMBERT pursuant to this decision shall be suspended for thirty (30) days from the effective date of issuance of said restricted license.

However, said suspension shall be stayed upon condition that:

(1) Respondent LAMBERT pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$250.00 for each day of the thirty (30) days of said suspension for a total monetary penalty of \$7,500.00. Respondent LAMBERT may at his discretion elect to stay a portion of the thirty (30) days of said suspension by paying a \$250.00 monetary penalty for each day of suspension stayed.

(2) 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. If Respondent LAMBERT 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 the 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.

(3) If Respondent LAMBERT pays the monetary penalty and if no further cause for disciplinary action against the real estate licenses of Respondents occurs within one (1) year from the effective date of the Decision the stay hereby granted shall become permanent.

G. The restricted licenses may be suspended or revoked for a violation by Respondents of any of the conditions attaching to these restricted licenses.

DATED: January 22, 1989

Robert E. McCabe
ROBERT E. McCABE
Regional Manager
Department of Real Estate

FILED
MAY - 6 1988

DEPARTMENT OF REAL ESTATE

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

Laurie A. Ryan

In the Matter of the Accusation of

G. K. LAMBERT, INC.,
dba SIERRA BAY REALTORS,
et al.,

Case No. H-2312 SAC

OAH No. N 31358

Respondent(s)

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, 501 J Street, Suite 220 (2nd Floor Hearing Rooms), Sacramento, California 95814 on the 14th day of November, 19 88, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: 05/06/88

By David A. Peters
DAVID A. PETERS Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
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FILED
MAR 17 1982

DEPARTMENT OF REAL ESTATE

By Laurie A. Zear

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
G. K. LAMBERT, INC.,) NO. H-2312 SAC
dba SIERRA BAY REALTORS;) ACCUSATION
GERALD K. LAMBERT,)
individually and as Designated)
Officer of G. K. LAMBERT, INC.,)
Respondents.)

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against G. K. LAMBERT, INC., dba SIERRA BAY REALTORS (hereinafter "Respondent SIERRA BAY") and GERALD K. LAMBERT (hereinafter "Respondent LAMBERT") is informed and alleges as follows:

I

Respondent SIERRA BAY is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "Code"). At all times material herein, Respondent SIERRA BAY was licensed as a real estate corporation doing business as SIERRA BAY REALTORS by

1 and through its designated officer Respondent LAMBERT.

2 II

3 Respondent LAMBERT is presently licensed and/or has
4 license rights under the Real Estate Law (Part 1 of Division 4 of
5 the Code). At all times material herein, Respondent LAMBERT was
6 licensed as a real estate broker and served as the designated
7 officer of Respondent SIERRA BAY.

8 III

9 The Complainant, Charles W. Koenig, a Deputy Real Estate
10 Commissioner of the State of California, makes this Accusation in
11 his official capacity.

12 IV

13 On or before June 12, 1985, Respondent SIERRA BAY and
14 Respondent LAMBERT acting on behalf of another or others and in
15 expectation of compensation managed certain rental real properties
16 located in or near Lake Tahoe, California.

17 V

18 During the course of the property management activities
19 described in Paragraph IV, Respondents SIERRA BAY and LAMBERT
20 received and disbursed funds held in trust on behalf of another or
21 others.

22 VI

23 In connection with the collection and disbursement of
24 said trust funds, Respondents SIERRA BAY and LAMBERT failed to
25 deposit and maintain said funds in said bank account in such
26 manner that as of June 12, 1985, there was a shortage of \$7,428.17
27 of trust funds in said bank account.

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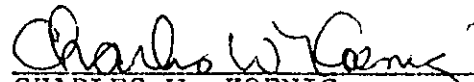
VII

Respondents SIERRA BAY and LAMBERT failed to obtain prior written consent of their principals for the reduction of the aggregate balance of trust funds in said bank account to an amount less than the existing aggregate trust fund liability to the owners of said funds.

VIII

The facts alleged above are grounds for the suspension or revocation of Respondents' licenses under Sections 2830 and 2832.1 of Title 10, California Code of Regulations and Section 10145 of the Code in conjunction with Section 10177(d) of the Code.

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 Respondents, 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 the provisions of law.



CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 16th day of March, 1988.