

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

FILED  
FEB 17 1997  
DEPARTMENT OF REAL ESTATE

*Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
R. E. PROP INVESTMENTS, INC., ) No. H-6621 SF  
GLENN GILBERT GOLDAN, )  
Respondents. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 6, 1994, a Decision was rendered herein revoking the real estate broker licenses of Respondents, but granting Respondents the right to apply for restricted real estate broker licenses upon terms and conditions. Restricted real estate broker licenses were issued to Respondents on May 27, 1994, and Respondents have operated as restricted licensees without cause for disciplinary action against Respondents since that time.

On June 9, 1995, Respondents petitioned for reinstatement of said licenses, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

I have considered the petition of Respondents and the evidence and arguments in support thereof including Respondents' records as restricted licensees. Respondents have demonstrated to my satisfaction that Respondents meet the requirements of law for the issuance to Respondents of unrestricted real estate broker licenses and that it would not be against the public interest to issue said licenses to Respondents.

NOW, THEREFORE, IT IS ORDERED that Respondents' petition for reinstatement is granted and that real estate broker licenses be issued to Respondents if Respondents satisfy the following conditions within six (6) months from the date of this Order:

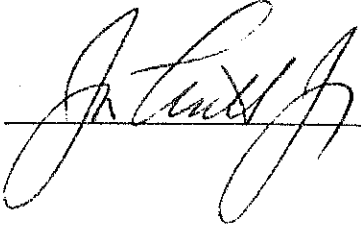
1. Submittal of a completed applications and payment of the fees for real estate broker licenses.

2. Submittal of evidence of Respondent GOLDAN having, 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.

This Order shall be effective immediately.

DATED: 1/29/97

JIM ANTT, JR.  
Real Estate Commissioner



COPY

FILED  
MAY 26 1994

DEPARTMENT OF REAL ESTATE

By Lynda Montiel  
Lynda Montiel

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-6621 SF
R. E. PROP. INVESTMENTS, INC. )	OAH N 40746
and GLENN GILBERT GOLDAN, )	
Respondents. )	

ORDER DENYING RECONSIDERATION

On April 6, 1994, a Decision was rendered in the above-entitled matter. The Decision is to become effective on May 27, 1994.

On April 25, 1994, Respondents R. E. PROP. INVESTMENTS, INC. and GLENN GILBERT GOLDAN petitioned for reconsideration of the Decision of April 6, 1994.

I have given due consideration to the petition of Respondents. I find no good cause to reconsider the Decision of April 6, 1994, and reconsideration is hereby denied.

IT IS SO ORDERED 5/23, 1994.

CLARK WALLACE  
Real Estate Commissioner

Clark Wallace

ORIGINAL

FILED  
APR 27 1994

DEPARTMENT OF REAL ESTATE

By Victoria Dillon  
Victoria Dillon

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	NO. H-6621 SF
R. E. PROP. INVESTMENTS, INC. )	OAH N 40746
and GLENN GILBERT GOLDAN, )	
Respondents. )	

ORDER STAYING EFFECTIVE DATE

On April 6, 1994, a Decision was rendered in the above-entitled matter to become effective April 28, 1994.

IT IS HEREBY ORDERED that the effective date of the Decision of April 6, 1994, is stayed for a period of twenty-nine (29) days.

The Decision of April 6, 1994, shall become effective at 12 o'clock noon on May 27, 1994.

DATED: April 27, 1994.

CLARK WALLACE  
Real Estate Commissioner

Les R. Bettencourt  
By: LES R. BETTENCOURT  
Deputy Real Estate Commissioner

**COPY**

**FILED**  
APR 8 1994

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By *Lynda Montiel*  
Lynda Montiel

\* \* \*

In the Matter of the Accusation of )  
 )  
R. E. PROP. INVESTMENTS, INC. )  
and GLENN GILBERT GOLDAN, )  
 )  
Respondent(s). )

No. H-6621 SF

OAH N 40746

DECISION

The Proposed Decision dated March 14, 1994,  
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.

This Decision shall become effective at 12 o'clock noon  
on April 28th, 1994.

IT IS SO ORDERED April 6, 1994.

CLARK WALLACE  
Real Estate Commissioner

*John R. Liberator*  
BY: John R. Liberator  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
of:	)	
	)	Case No. H-6621 SF
R.E. PROP. INVESTMENTS, INC.	)	
and GLENN GILBERT GOLDAN,	)	OAH No. N 40746
	)	
Respondents.	)	
<hr/>		

PROPOSED DECISION

This matter was heard before Jonathan Lew, Administrative Law Judge, State of California, Office of Administrative Hearings on February 4, 1994, in San Francisco, California.

The Department of Real Estate was represented by Deidre L. Johnson, Counsel.

Respondent Glenn Gilbert Goldan was present and represented by Ronald F. Angell, Attorney at Law, Mitchell, Dedekam & Angell, 814 Seventh Street, P. O. Drawer 1008, Eureka, California 95502.

FINDINGS OF FACT

I

Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, Department of Real Estate (Department) made and issued the Accusation in his official capacity, and not otherwise.

II

At all times pertinent Respondents were and are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code). Respondent R.E. Prop. Investments, Inc. is a licensed real estate broker corporation, doing business under the fictitious name of Personalized Property Management Service with said license expiring June 20, 1997. At all times pertinent, Respondent Glenn Gilbert Goldan was licensed as the

designated broker officer of PPMS, and said license will expire on June 20, 1997.

### III

Glenn Gilbert Goldan (Respondent) is the owner and designated officer of ReProp Investments, Inc., a real estate corporation employing approximately thirty agents in separate real estate, property management and financial divisions. The divisions operate under the names Century 21 Consolidated Services, Personalized Property Management Services (PPMS) and ReProp Financial.

PPMS employed two agents who were responsible for the management of small residential properties in the Eureka vicinity. Between 150 and 200 residential units were managed at any given time, with PPMS responsible for developing for all units an operations budget, overseeing maintenance and overseeing all financial matters including posting of rental receipts and payment of expenses including commissions and mortgage payments on the property.

Respondents Goldan and PPMS engaged in property management activities for which a real estate license is required, for or in expectation of compensation (8 percent commission), and solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by others in California.

### IV

From on or before April 1987 through 1991, in connection with its management of properties, Respondents PPMS and Goldan entered into written property management agreements with the owners of the real properties. The agreements were exclusive and authorized or employed Respondents as licensees to perform acts for compensation or commission, the terms of which provided substantially as follows:

"The owner hereby employs and grants Agents the exclusive right to rent, lease, operate and manage the property known as ... upon the terms hereinafter set forth, for the period of indefinite time commencing ... and terminating undetermined [or upon notice], 19\_\_\_; provided, however, that either party hereto may terminate this contract as of the any [or first] day of any month during any year of the term hereof, by giving to the other party not less than 30 days prior written notice on an intention to so terminate."

The terms of this property management agreement do not contain a definite, specified date of final and complete termination as required by section 10176(f) of the Business and Professions Code.

Over the period that the above forms and language were used, Respondent Goldan did not realize that he was not in compliance with Code provisions respecting same. Since September 1991 a new property management agreement form (Exhibit M) has been used which contains a definite, specified date of final and complete termination of the agreement.

## V

Over the period from 1989 through July 1990, Respondents employed Steve Barney to perform services for which a real estate license is required, for or in expectation of compensation, and paid commissions and compensation to Barney subsequent to the expiration of Barney's real estate salesperson's license. Steve Barney was initially licensed January 27, 1984, and his license had expired January 26, 1988.

Among the transactions involving Steve Barney were negotiations with prospective tenant Jenette Koplos Kane for the rental of an apartment located at 2641 Union Street, Apt. A, Eureka, California, commencing in January 1989.

Respondent Goldan first learned of Steve Barney's expired license during the Department's July 1990 office review. Two years prior to this visit, the Department had changed its policy and provided notices of expired licenses to agents only, and not to brokers. Because he had not been notified, he had not corrected the situation. Respondent has since arranged to obtain a license status list from the Department the first of each year, and has also developed a system for calendaring license expiration dates for internal office management.

## VI

Between January 8 and 24, 1991, the Department conducted an audit of the books and records of PPMS relating to its property management activities. Over the audit period from January 1, 1988 through November 30, 1990, Respondents accepted or received funds in trust from tenants and owners of real property. The trust funds received by Respondents were deposited or caused to be deposited into a bank account at Wells Fargo Bank in Eureka, California, bearing bank account number [REDACTED].



The above bank account was not designated as a trust account. The sole signatories for this account were Dan Swenson, a duly licensed real estate salesperson, and Steve Barney, whose real estate salesperson license expired on January 26, 1988.

Respondents maintained a fidelity bond in the amount of \$25,000 per occurrence for employee dishonesty. This was an insufficient amount since PPMS maintained bank balances in trust far exceeding this amount, and to which an unlicensed employee had access during the audit period.

Respondents did deposit all trust funds into this account as required, and otherwise treated this account in all respects as a trust account. All service charges for this account were billed to the corporation's general account. Respondents have since added the designation "Trust Account" to its Wells Fargo Bank trust account.

#### VII

As of November 30, 1990, the adjusted balance of the above PPMS bank account was \$34,567.91. The total trust accountability of Respondents for property management trust funds received as of that same date was \$53,799.26. This left a trust fund shortage on November 30 of \$19,231.35. This shortage was covered the day after Respondent Goldan was advised of same.

#### VIII

Problems with trust fund shortages dated back to December 1988, when Respondent Goldan learned from the bank that the account was overdrawn by approximately \$11,000.00. At that time Goldan demanded a report and explanation from Steve Barney, who attributed the shortfall to computer problems when the system changed over from manual to computer operations, and certain data was overlooked and not inputted properly. It was believed that certain vendors were double paid on accounts payable.

Respondent Goldan instituted a series of action steps to avoid future account imbalances at that time. Among these measures were strict enforcement of collections prior to disbursements on individual accounts, maintenance of minimum balances on certain accounts that would result in a computer default if monies dipped below these balances (fail safe computer system), regular review of account status and use of a new report form that Steve Barney was to complete and present to Goldan each month, and complete reconciliation of all accounts by the end of January 1989.

From February 1989, Steve Barney met at least monthly with Goldan and presented monthly activity reports showing total receipts and deposits, new clients, bank statements and reconciliation of same with owner account balances. There were no bank statements that indicated the account to be overdrawn, and average balances actually grew over the audit period. When the fact of the trust fund shortage was brought to Goldan's attention, it came as a complete surprise. Steve Barney subsequently confessed to making payments of outstanding owner bills, having developed a method of working around the fail safe computer program. Apparently he was able to transfer money from one apartment complex owned by the same owner, to another complex to pay bills. No disbursements for personal reasons were found. Goldan terminated Steve Barney's employment.

#### IX

Respondents cooperated fully with the Department in its audit and attempts to determine how the shortfall occurred. It appears that no clients lost any money, and no complaints in regard to same were made by owner clients. Steve Barney initially misled Respondents and the Department auditor into believing that reconciliation of individual owner accounts could only be done through review of individual client files. In fact this sort of reconciliation can also be done through the computer software already in place.

Over the audit period, Respondent basically reviewed account summary information based on aggregate reconciliation of total receipts and deposits, with bank statements. It was not unreasonable at the time for him to rely upon a fail safe computer program to alert him to any problems with individual accounts. He could not have predicted Barney's efforts to override the system and then to cover up his actions.

Nevertheless, it was ascertained through the audit that during the period 1989 through November 1990, Respondents failed to perform regular reconciliations of the control and subsidiary records at least once a month. He has since developed a system whereby this is done each month.

#### X

Respondent Goldan has been in real estate since 1976. He is the former state director, regional director and president of his county Board of Realtors. He has also sat as a member of committees overseeing grievances, ethics and legislation for the board of realtors. Throughout the Department's investigation he has moved quickly to remedy any matters brought to his attention.

Nonetheless, he was responsible for the supervision and control of the activities conducted by PPMS, its officers and employees to secure full compliance with the Real Estate Law. He failed to perform these responsibilities and to exercise reasonable supervision and control of the activities of PPMS and its employees in that he failed to take all necessary steps to assure compliance in the above particulars.

The measures that Goldan took to account for trust funds were reasonable, and he is not to be held responsible for the intentional misconduct of Steve Barney. In all other aspects relating to license expirations, trust account designations, reconciliation of control and subsidiary accounts and the use of indefinite language in management agreements, Respondent Goldan did fail to exercise reasonable supervision and control of PPMS activities.

## DETERMINATION OF ISSUES

### I

Cause for disciplinary action under Business and Professions Code section 10176(f) exists, by reason of the matters set forth in Findings III and IV.

### II

Cause for disciplinary action under Title 10 California Code of Regulations (CCR) section 2834, and Business and Professions Code sections 10145(a) and 10177(d) exists, by reason of the matters set forth in Finding VI.

### III

Cause for disciplinary action under Title 10 CCR section 2831.2, and Business and Professions Code section 10177(d) exists, by reason of the matters set forth in Findings VII through IX.

### IV

Cause for disciplinary action under Business and Professions Code section 10137 exists, by reason of the matters set forth in Finding V.

### V

Cause for disciplinary action under Business and Professions Code sections 10177(g) and (h) exists, by reason of the matters set forth in Finding X.

VI

The matters set forth in Findings IX and X were considered in making the following order. Respondent has taken satisfactory measures to correct trust fund violations, and it is not necessary to conduct a further Department audit under section 10148 of the Business and Professions Code to determine compliance as a part of any probationary order.

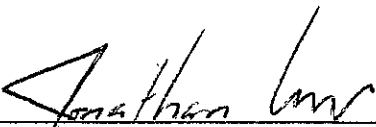
ORDER

All licenses and licensing rights of Respondents R.E. Prop. Investments, Inc, and Glenn Gilbert Goldan under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondents pursuant to section 10156.5 of the Business and Professions Code if Respondents make application therefor and pay to the Department of Real Estate the appropriate fees for the restricted licenses within 90 days from the effective date of this Decision. The restricted licenses issued to Respondents shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted licenses issued to Respondents may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of a conviction or plea of nolo contendere to a crime which is substantially related to Respondents' fitness or capacity as real estate licensees.
2. The restricted licenses issued to Respondents may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondents have 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. Respondents shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one (1) year has elapsed from the effective date of this Decision.

4. Respondent Goldan shall, within nine (9) 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 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 Goldan fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until he presents such evidence. The Commissioner shall afford him the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
  
5. Respondent Goldan 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 Goldan fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until he passes the examination.

DATED: March 14, 1994

  
\_\_\_\_\_  
JONATHAN LEW  
Administrative Law Judge  
Office of Administrative Hearings

11/23

**COPY**

**FILED**  
NOV 23 1993

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

DEPARTMENT OF REAL ESTATE

By *Linda Montiel*  
Linda Montiel

*In the Matter of the Accusation of*

R. E. PROP. INVESTMENTS, INC. and  
GLENN GILBERT GOLDAN,

}

Case No. H-6621 SF

OAH No. N 40746

Respondent

**CONTINUED  
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 \_\_\_\_\_

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94107

on Friday, February 4, 1994 (1 Day), at the hour of 9:00 am,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: November 23, 1993

By *Deidre L. Johnson, Jr.*  
DEIDRE L. JOHNSON, Counsel

Flay

COPY

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

JUN 10 1992

DEPARTMENT OF REAL ESTATE

By Maria J. [Signature]

In the Matter of the Accusation of

R.E. PROP. INVESTMENTS, INC.  
and GLENN GILBERT GOLDAN,

Case No. H-6621 SF  
OAH No. N-40746

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 \_\_\_\_\_  
OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,  
455 Golden Gate Avenue, Room 2248, S.F., CA 94102

on October 16, 1992 (1 day), at the hour of 9:00 am,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: June 10, 1992

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel (ml)

*Filing*

**COPY FILED**  
JAN 15 1992

DEIDRE L. JOHNSON, Counsel  
Department of Real Estate  
185 Berry Street, Room 3400  
San Francisco, CA 94107-1770

DEPARTMENT OF REAL ESTATE

By *Maria J. ...*

Telephone: (415) 904-5917

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H- 6621 SF
R.E. PROP. INVESTMENTS, INC. )	
and GLENN GILBERT GOLDAN, )	<u>ACCUSATION</u>
Respondents. )	

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against R.E. PROP. INVESTMENTS, INC. and GLENN GILBERT GOLDAN (sometimes hereafter referred to as Respondents) is informed and alleges as follows:

I

At all times herein mentioned, Respondents were and are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereafter the Code).

II

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, makes this Accusation



1 against Respondents in his official capacity as such and not  
2 otherwise.

3 III

4 At all times herein mentioned, Respondent R.E. PROP.  
5 INVESTMENTS, INC. was licensed as a real estate broker  
6 corporation, doing business under the fictitious name of  
7 Personalized Property Management Service (hereafter PPMS), and  
8 said license will expire on June 20, 1993.

9 IV

10 At all times herein mentioned, GLENN GILBERT GOLDAN  
11 (hereafter GOLDAN) was licensed as the designated broker officer  
12 of PPMS, and said license will expire on June 20, 1993.

13 V

14 At all times herein mentioned, Respondents PPMS and  
15 GOLDAN engaged in property management activities for which a real  
16 estate license is required, for or in expectation of compensation,  
17 and solicited prospective tenants for, negotiated rental  
18 agreements for and collected rents from real properties owned by  
19 others in California. In connection therewith, PPMS entered into  
20 written management agreements with the owners of the real  
21 properties, which written agreements provided substantially as  
22 follows:

23 The owner hereby employs and grants Agent the  
24 exclusive right to rent, lease, operate and manage  
25 the property...upon the terms hereinafter set  
26 forth, for the period of indefinite  
27 commencing...and terminating undetermined [or upon  
notice], 19\_\_\_: provided, however, that either  
party hereto may terminate this contract as of the  
first day of any month during any year of the term  
hereof, by giving to the other party not less than

1 30 days prior written notice on an intention to so  
2 terminate.

3 VI

4 The management agreement referred to in Paragraph V  
5 above constitutes an exclusive agreement authorizing or employing  
6 a licensee to perform acts set forth in Section 10131 of the Code  
7 for compensation or commission, and said management agreement did  
8 not contain a definite, specified date of final and complete  
9 termination as required by Section 10176(f) of the Code.

10 VII

11 In or about January of 1991, the State of California  
12 Department of Real Estate conducted an audit of the books and  
13 records of PPMS relating to its property management activities.  
14 During the three year period immediately preceding the filing of  
15 this Accusation, Respondents accepted or received funds in trust  
16 from tenants and owners of real property. The trust funds  
17 received by Respondents were deposited or caused to be deposited  
18 into a bank account at Wells Fargo Bank in Eureka, California,  
19 bearing bank account No. [REDACTED].

20 VIII

21 It was ascertained by the audit that the above bank  
22 account was not designated as a trust account. The sole  
23 signatories for said account were Dan Swensen, a duly licensed  
24 real estate salesperson, and Steve Barney, whose real estate  
25 salesperson license expired on January 26, 1988. Respondents  
26 maintained a fidelity bond in the amount of \$25,000. Said  
27 fidelity bond coverage was less than the maximum amount of trust

1 funds to which an unlicensed employee had access during the audit.

2 IX

3 As of about November 30, 1990, the adjusted balance of  
4 said bank account was approximately \$34,567.91. The total  
5 approximate trust accountability of Respondents for property  
6 management trust funds received as of about November 30, 1990 was  
7 in the amount of \$53,799.26. Respondents as of said date had an  
8 approximate trust fund shortage of \$19,231.35.

9 X

10 It was further ascertained by the audit that during 1989  
11 and to November of 1990, Respondents failed to perform regular  
12 reconciliations of the control and subsidiary records at least  
13 once a month as required by Section 2831.2 of Title 10, California  
14 Code of Regulations.

15 XI

16 It was further ascertained by the audit that during 1989  
17 and to approximately July of 1990, Respondents employed Steve  
18 Barney to perform services for which a real estate license is  
19 required, for or in expectation of compensation, and paid  
20 commissions and compensation to Barney subsequent to the  
21 expiration of Barney's real estate salesperson, including but not  
22 limited to the following transaction: negotiations with  
23 prospective tenant Jenette Koplos Kane for the rental of an  
24 apartment located at and known as 2641 Union Street, Apt. A,  
25 Eureka, California, commencing on or about January 13, 1989.

26 / / / / /

27 / / / / /

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

XII

GOLDAN was responsible under Section 10159.2 of the Code for the supervision and control of the activities conducted by PPMS, its officers and employees to secure full compliance with the Real Estate Law. GOLDAN was negligent or incompetent in the performance of the above responsibilities, and failed to exercise reasonable supervision and control of the activities of PPMS, in that he knew or should have known all of the facts alleged above, and could have and should have taken steps to assure compliance.

XIII

The acts and/or omissions of Respondents as alleged in Paragraphs V and VI above constitute grounds for disciplinary action under the provisions of Section 10176(f) of the Code.

XIV

The acts and/or omissions of Respondents as alleged in Paragraphs VII and VIII violate Section 10145(a) of the Code and Section 2834 of the Regulations, and constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

XV

The acts and/or omissions of Respondents as alleged in Paragraphs IX and X above violate Section 10145(a) of the Code and Section 2831.2 of the Regulations and constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

/ / / / /

/ / /

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

XVI

The acts and/or omissions of Respondents as alleged in Paragraph XI above constitute grounds for disciplinary action under the provisions of Section 10137 of the Code.

XVII

The acts and/or omissions of Respondent GOLDAN as alleged in Paragraph XII above constitute grounds for disciplinary action under the provisions of Sections 10177(g) and/or 10177(h) 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 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.

*Edward V. ChioLO*

EDWARD V. CHIOLO  
Deputy Real Estate Commissioner

Dated at San Francisco, California

this 9<sup>th</sup> day of JANUARY, 19 92.