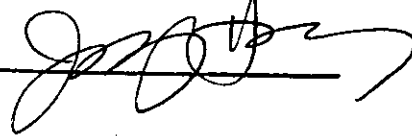


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7/01/01

FILED
JAN 14 2005

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1998 SA
)	H-28209 LA
CHARLES DUFFY RIEBE,)	
)	
)	
)	
Respondent.)	

AMENDED ORDER DENYING REINSTATEMENT OF LICENSE

This Order amends the Order Denying Reinstatement of License filed on December 15, 2004.

On July 6, 2000, a Decision was rendered in Department of Real Estate ("Department") case no. H-28209 LA revoking Respondent's real estate salesperson license. On July 19, 2000, Respondent petitioned for reconsideration of the Decision. The Decision which was to become effective on August 3, 2000 was stayed until September 15, 2000. On September 13, 2000, an Order Denying Reconsideration was filed.

On March 13, 2003, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the issuance to Respondent of an unrestricted real estate salesperson license, in that:

I

In the 2000 Decision which revoked Respondent's real estate salesperson license, there were determinations of issues made that there was cause to revoke Respondent's restricted real estate salesperson license pursuant to Business and Professions Code ("Code") Sections 10176(a), 10177(d), 10177(g) and 10177(k).

The facts underlying said Decision were that on January 12, 1998, Respondent took a listing for an Exclusive Authorization to Rent or Lease ("Agreement") certain real property in Irvine, California for the owners of the property. The Agreement gave Respondent the right to locate a tenant for a one-year lease. Respondent rented the property without obtaining the owners signature on a written lease. The tenant did not have the ability or intent to pay rent and an eviction process was initiated. Respondent had sufficient notice that the tenant was not reliable.

II

On April 8, 1997, a Decision was rendered in Department case No. H-1998 SA. Said Decision revoked Respondent's real estate salesperson license with the right to a restricted salesperson license. A restricted real estate salesperson license was issued to Respondent on May 23, 1997.

There were determinations of issues made that there was cause to revoke Respondent's real estate salesperson license pursuant to Code Sections 10177(d) and 10177(g), for violation of Code Sections 10130, 10137 and 10145(c).

The facts underlying said Decision were that in 1992, Respondent acted as a real estate broker when he was not so licensed; Respondent failed to place trust funds received into his employing broker's trust fund account; and Respondent accepted employment from someone other than his employing broker.

III

On August 24, 1999, an Order Suspending Restricted Real Estate License was filed against Respondent in Department Case No. H-28209 LA. Respondent's restricted real estate salesperson license was suspended as a result of the filing of an Accusation by the Department charging Respondent with violating the Real Estate Law.

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IV

On or about March 6, 2000, Respondent made application to the Department for a real estate broker license. A Statement of Issues was filed against Respondent's application in Department case No. H-29063 LA.

On August 20, 2001, a Decision was rendered in Department case No. H-29063 LA, denying Respondent's application. There were conclusions of law made that there was cause to deny Respondent's application for a real estate broker license pursuant to Code Section 10177(f), due to the prior disciplinary actions against Respondent.

V

The burden of proving rehabilitation rests with the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

The Department has developed criteria in Section 2911 of Title 10, Chapter 6, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

1 Regulation 2911(a): A longer period than two years
2 will be required if there is a history of acts or conduct
3 substantially related to the qualifications, functions or duties
4 of a real estate licensee. Considering Respondent's history of
5 disciplinary actions additional time is needed to assess his
6 rehabilitation.

7 Regulation 2911(i): Completion of, or enrollment in,
8 educational or vocational training courses. Respondent has not
9 submitted proof of such completion.

10 Regulation 2911(j): Discharge of or bona fide efforts
11 toward discharging, adjudicated debts or monetary obligations to
12 others. Respondent has approximately twelve (12) federal and tax
13 liens against him totaling approximately \$1,084,596. Respondent
14 has not provided proof that the tax liens have been paid or that
15 he has made bona fide efforts to pay the tax liens.

16 Regulation 2911(l): Significant or conscientious
17 involvement in community, church, or social programs. Respondent
18 has not submitted proof of such involvement.

19 Regulation 2911(n)(1): Change in attitude from that
20 which existed at the time of the conduct as evidenced by the
21 testimony of Respondent. As part of the petition application
22 process, Respondent was interviewed by a Deputy Real Estate
23 Commissioner ("Deputy"). The Deputy determined that Respondent
24 did not present a change in attitude. Respondent made statements
25 that conflicted with statements made at the hearing and
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1 Respondent blamed others for the facts that led to the revocation
2 of his real estate license.

3 Given the fact that Respondent has not established that
4 he has met the criteria of Regulations 2911(a), 2911(i), 2911(j),
5 2911(l) and 2911(n)(1), I am not satisfied that Respondent is
6 sufficiently rehabilitated to receive a real estate salesperson
7 license.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement of Respondent's real estate
10 salesperson license is denied.

11 I am satisfied, however, that it will not be against
12 the public interest to issue a restricted real estate salesperson
13 license to Respondent.

14 A restricted real estate salesperson license shall be
15 issued to Respondent pursuant to Code Section 10156.5 if
16 Respondent within twelve (12) months from the date hereof:

17 (a) makes application therefor and pays the appropriate
18 fee for said license.

19 (b) submits evidence of having, since the most recent
20 issuance of an original or renewal real estate license, taken and
21 successfully completed the continuing education requirements of
22 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
23 real estate license.

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1 The restricted license issued to Respondent shall be
2 subject to all of the provisions of Code Section 10156.7 and to
3 the following limitations, conditions and restrictions imposed
4 under authority of Code Section 10156.6:

5 1. Within ninety (90) days after issuance of a
6 restricted license, Respondent shall submit evidence satisfactory
7 to the Real Estate Commissioner that he has entered into payment
8 plan agreements with each Federal and State entity that holds a
9 tax lien against him.

10 2. The restricted license issued to Respondent may
11 be suspended prior to hearing by Order of the Real Estate
12 Commissioner in the event of Respondent's conviction or plea
13 of nolo contendere to a crime which is substantially related.

14 3. The restricted license issued to Respondent may
15 be suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the Commissioner that
17 Respondent has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner or conditions attaching to the restricted license.

20 4. During the term of the restricted license,
21 Respondent shall submit proof to Manager of the Crisis Response
22 Team in the Los Angeles District Office, that he is making
23 payments as agreed, to each Federal and State entity that holds
24 a tax lien against him. Such proof shall be submitted twice a
25 year, at the end of each June and December.
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1 The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner on evidence satisfactory to the Commissioner that
4 Respondent has violated or defaulted on agreements with any
5 Federal and State entity that holds a tax lien against him, or
6 on evidence satisfactory to the Commissioner that Respondent has
7 failed to report to the Manager of the Crisis Response Team as
8 indicated above.

9 5. Respondent shall not be eligible to apply for the
10 issuance of an unrestricted real estate license nor for the
11 removal of any of the conditions, limitations, or restrictions of
12 a restricted license until two (2) years have elapsed from the
13 effective date of this Decision.

14 6. Respondent shall submit with any application for
15 license under an employing broker, or with any application for
16 transfer to a new employing broker, a statement signed by the
17 prospective employing real estate broker on a form approved by
18 the Department which shall certify:
19

20 (a) That the employing broker has read the Decision of
21 the Commissioner which granted the right to a restricted license;
22 and

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1 (b) That the employing broker will exercise close
2 supervision over the performance by the restricted licensee
3 relating to activities for which a real estate license is
4 required.

5 This Order shall become effective at 12 o'clock noon
6 on February 3, 2005.

7 DATED: 1-11-05, 2005.
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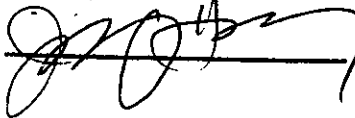
9 JEFF DAVI
10 Real Estate Commissioner
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24 cc: Charles D. Riebe
25 29 Timbergate
26 Irvine, CA 92614
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SAULT
1286

FILED
DEC 15 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-1998 SA
CHARLES DUFFY RIEBE,) H-28209 LA
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On July 6, 2000, a Decision was rendered in Department of Real Estate ("Department") case no. H-28209 LA, revoking Respondent's real estate salesperson license. On July 19, 2000, Respondent petitioned for reconsideration of the Decision. The Decision which was to become effective on August 3, 2000 was stayed until September 15, 2000. On September 13, 2000, an Order Denying Reconsideration was filed.

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On March 13, 2003, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the issuance to Respondent of an unrestricted real estate salesperson license, in that:

I

In the 2000 Decision which revoked Respondent's real estate salesperson license, there were determination of issues made that there was cause to revoke Respondent's restricted real estate salesperson license pursuant to Business and Professions Code ("Code") Sections 10176(a), 10177(d), 10177(g) and 10177(k).

The facts underlying said Decision were that on January 12, 1998, Respondent took a listing for an Exclusive Authorization to Rent or Lease ("Agreement") certain real property in Irvine, California for the owners of the property. The Agreement gave Respondent the right to locate a tenant for a one-year lease. Respondent rented the property without obtaining the owners signature on a written lease. The tenant

1 did not have the ability or intent to pay rent and an eviction
2 process was initiated. Respondent had sufficient notice that
3 the tenant was not reliable.

4
5 II

6 On April 8, 1997, a Decision was rendered in
7 Department case no. H-1998 SA. Said Decision revoked
8 Respondent's real estate salesperson license with the right
9 to a restricted salesperson license. A restricted real estate
10 salesperson license was issued to Respondent on May 23, 1997.

11 There were determination of issues made that there
12 was cause to revoke Respondent's real estate salesperson
13 license pursuant to Code Sections 10177(d) and 10177(g),
14 for violation of Code Sections 10130, 10137 and 10145(c).

15 The facts underlying said Decision were that in 1992,
16 Respondent acted as a real estate broker when he was not so
17 licensed; Respondent failed to place trust funds received into
18 his employing broker's trust fund account; and Respondent
19 accepted employment from someone other than his employing
20 broker.
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1 III

2 On August 24, 1999, an Order Suspending Restricted
3 Real Estate License was filed against Respondent in Department
4 Case No. H-28209 LA. Respondent's restricted real estate
5 salesperson license was suspended as a result of the filing
6 of an Accusation by the Department charging Respondent with
7 violating the Real Estate Law.

8 IV

9 On or about March 6, 2000, Respondent made
10 application to the Department for a real estate broker
11 license. A Statement of Issues was filed against
12 Respondent's application in Department case no. H-29063 LA.

14 On August 20, 2001, a Decision was rendered in
15 Department case no. H-29063 LA, denying Respondent's
16 application. There were conclusions of law made that there
17 was cause to deny Respondent's application for a real estate
18 broker license pursuant to Code Section 10177(f), due to the
19 prior disciplinary actions against Respondent.
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1
2 The burden of proving rehabilitation rests with
3 the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).
4 A petitioner is required to show greater proof of honesty and
5 integrity than an applicant for first time licensure. The
6 proof must be sufficient to overcome the prior adverse judgment
7 on the applicant's character (Tardiff v. State Bar (1980) 27
8 Cal. 3d 395).
9

10 The Department has developed criteria in Section 2911
11 of Title 10, Chapter 6, California Code of Regulations
12 (Regulations) to assist in evaluating the rehabilitation of an
13 applicant for reinstatement of a license. Among the criteria
14 relevant in this proceeding are:
15

16 Regulation 2911(a): A longer period than two years
17 will be required if there is a history of acts or conduct
18 substantially related to the qualifications, functions or duties
19 of a real estate licensee. Considering Respondent's history of
20 disciplinary actions additional time is needed to assess his
21 rehabilitation.

22 Regulation 2911(i): Completion of, or enrollment
23 in, educational or vocational training courses. Respondent
24 has not submitted proof of such completion.

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1 Regulation 2911(j): discharge of or bona fide efforts
2 toward discharging, adjudicated debts or monetary obligations to
3 others. Respondent has approximately twelve (12) federal and
4 tax liens against him totaling approximately \$1,084,596.

5 Respondent has not provided proof that the tax liens have been
6 paid or that he has made bona fide efforts to pay the tax liens.

7 Regulation 2911(l): Significant or conscientious
8 involvement in community, church, or social programs.

9 Respondent has not submitted proof of such involvement.

10 Regulation 2911(n)(1): Change in attitude from that
11 which existed at the time of the conduct as evidenced by the
12 testimony of Respondent. As part of the petition application
13 process, Respondent was interviewed by a Deputy Real Estate
14 Commissioner ("Deputy"). The Deputy determined that Respondent
15 did not present a change in attitude. Respondent made
16 statements that conflicted with statements made at the hearing
17 and Respondent blamed others for the facts that led to the
18 revocation of his real estate license.

19 Given the fact that Respondent has not established
20 that he has met the criteria of Regulations 2911(a), 2911(i),
21 2911(j), 2911(l) and 2911(n)(1), I am not satisfied that
22 Respondent is sufficiently rehabilitated to receive a real
23 estate salesperson license.

24 ///

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27

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of Respondent's real estate
3 salesperson license is denied.

4 I am satisfied, however, that it will not be against
5 the public interest to issue a restricted real estate
6 salesperson license to Respondent.

7 A restricted real estate salesperson license shall
8 be issued to Respondent pursuant to Code Section 10156.5
9 if Respondent within nine (9) months from the date hereof:

10 (a) makes application therefor and pays the
11 appropriate fee for said license.

12 (b) submits evidence of having, since the most recent
13 issuance of an original or renewal real estate license, taken
14 and successfully completed the continuing education requirements
15 of Article 2.5 of Chapter 3 of the Real Estate
16 Law for renewal of a real estate license.

17 (c) submits evidence that he has entered into payment
18 plan agreements with each Federal and State entity that holds a
19 tax lien against him.

20 The restricted license issued to Respondent shall be
21 subject to all of the provisions of Code Section 10156.7 and to
22 the following limitations, conditions and restrictions imposed
23 under authority of Code Section 10156.6:

24 ///

25 ///

1 1. The restricted license issued to Respondent
2 may be suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea
4 of nolo contendere to a crime which is substantially related
5 to Respondent's fitness or capacity as a real estate licensee.
6

7 2. The restricted license issued to Respondent
8 may be suspended prior to hearing by Order of the Real Estate
9 Commissioner on evidence satisfactory to the Commissioner that
10 Respondent has violated provisions of the California Real
11 Estate Law, the Subdivided Lands Law, Regulations of the Real
12 Estate Commissioner or conditions attaching to the restricted
13 license.
14

15 3. During the term of the restricted license,
16 Respondent shall submit proof to Manager of the Crisis Response
17 Team in the Los Angeles District Office, that he is making
18 payments as agreed, to each Federal and State entity that holds
19 a tax lien against him. Such proof shall be submitted twice a
20 year, at the end of each June and December.

21 The restricted license issued to Respondent
22 may be suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated or defaulted on agreements with any
25 Federal and State entity that holds a tax lien against him, or
26 on evidence satisfactory to the Commissioner that Respondent
27

1 has failed to report to the Manager of the Crisis Response Team
2 as indicated above.

3 4. Respondent shall not be eligible to apply for
4 the issuance of an unrestricted real estate license nor for
5 the removal of any of the conditions, limitations or
6 restrictions of a restricted license until two (2) years
7 have elapsed from the effective date of this Decision.

8 5. Respondent shall submit with any application for
9 license under an employing broker, or with any application for
10 transfer to a new employing broker, a statement signed by the
11 prospective employing real estate broker on a form approved by
12 the Department which shall certify:
13
14

15 (a) That the employing broker has read the Decision
16 of the Commissioner which granted the right to a restricted
17 license; and

18 (b) That the employing broker will exercise close
19 supervision over the performance by the restricted licensee
20 relating to activities for which a real estate license is
21 required.
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Amended

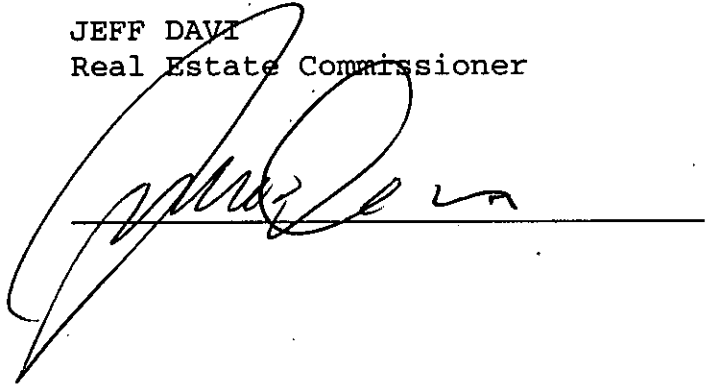
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This Order shall become effective at 12 o'clock noon

on January 4, 2005.

DATED: December 14 2004.

JEFF DAVI
Real Estate Commissioner



cc: Charles D. Riebe
29 Timbergate
Irvine, CA 92614

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FILED
SEP 13 2000
DEPARTMENT OF REAL ESTATE

By K. Hulsholt

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-28209 LA
CHARLES DUFFY RIEBE,) OAH No. L-1999090160
Respondent.)

ORDER DENYING RECONSIDERATION

On or about July 6, 2000, a Decision revoked the restricted real estate license of respondent. The Decision was to become effective at 12 o'clock noon on August 3, 2000.

On July 19, 2000, respondent petitioned for reconsideration of said Decision. Orders Staying Effective Date were issued, staying the effective date until September 15, 2000.

On or about August 30, 2000, respondent submitted argument regarding reconsideration of the Decision of July 6, 2000.

1 I have given due consideration to respondent's
2 petition and argument submitted to the Department of Real
3 Estate with respect to the revocation of respondent's
4 restricted real estate license and have reviewed the record in
5 this matter. I find no good cause to reconsider the Decision
6 of July 19, 2000. Reconsideration is hereby denied.

7 IT IS SO ORDERED September 12, 2000

8 PAULA REDDISH ZINNEMANN
9 Real Estate Commissioner
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Paula Reddish Zinnemann



FILED
SEP - 5 2000
DEPARTMENT OF REAL ESTATE

By K. Huderbolt

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) DRE No. H-28209 LA
CHARLES DUFFY RIEBE,) OAH No. L-1999090160
Respondent.)

ORDER STAYING EFFECTIVE DATE

On July 6, 2000, a Decision was rendered in the above-entitled matter to become effective August 3, 2000. On July 19, 2000, an ORDER STAYING EFFECTIVE DATE stayed the effective date of August 3, 2000, for 30 days, staying the effective date until September 5, 2000.

IT IS HEREBY ORDERED that the effective date of the Decision of July 6, 2000, is stayed for an additional period of 10 days.

The Decision of July 6, 2000, shall become effective at 12 o'clock noon on September 15, 2000.

DATED 9-5-00

Randolph Brendia By Jean McCarty

Randolph Brendia
Regional Manager



FILED
JUL 20 2000

DEPARTMENT OF REAL ESTATE

By R. K. Kuderholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) DRE No. H-28209 LA
CHARLES DUFFY RIEBE,) OAH No. L-1999090160
Respondent.)

ORDER STAYING EFFECTIVE DATE

On July 6, 2000, a Decision was rendered in the above-entitled matter to become effective August 3, 2000.

IT IS HEREBY ORDERED that the effective date of the Decision of July 6, 2000, is stayed for a period of 30 days.

The Decision of July 6, 2000, shall become effective at 12 o'clock noon on September 5, 2000.

DATED July 19, 2000

Randolph Brendia By [Signature]
Randolph Brendia
Regional Manager



FILED
JUL 14 2000
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

By *K. Reschke*

In the Matter of the Accusation of)

No. H-28209 LA

L-1999090160

CHARLES DUFFY RIEBE,

Respondent(s).

DECISION

The Proposed Decision dated May 30, 2000,
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 August 3, 2000

IT IS SO ORDERED

July 6, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

Case No. H-28209 LA

CHARLES DUFFY RIEBE,

OAH No. L-1999090160

Respondent.

PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on November 22, 1999. A Proposed Decision was issued on December 21, 1999. Thereafter, the Department remanded the matter for further hearing. Said hearing came on regularly on May 16, 2000. This Proposed Decision replaces and supercedes all prior Decisions, Modifications, and Amendments thereto.

At the hearing on November 22, 1999, Elliott MacLennan, Real Estate Counsel, represented the complainant Department of Real Estate. Ronald Talmo, Attorney at Law, represented respondent Charles D. Riebe who was present throughout the hearing.

At the hearing on May 16, 2000, Elliott MacLennan, Real Estate Counsel, represented the complainant Department of Real Estate. Respondent Charles D. Riebe was personally present throughout the hearing and represented himself.

Documentary evidence having been received and the matter submitted, the Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. Thomas McCrady, Deputy Real Estate Commissioner, Department of Real Estate, made the Accusation in his official capacity.

2. Respondent has been licensed as a real estate salesperson since April 13, 1977, under license ID#00595531. On May 23, 1997, a restricted salesperson's license was issued, effective April 29, 1997, pursuant to discipline imposed in Department of Real Estate Case No. H-1998 SA. Said license expires May 22, 2001.

3. It was not established by credible evidence that on July 15, 1997, while engage in licensed activities for Re/Max Premier Realtor located in Irvine, California, respondent took a listing, an Exclusive Authorization and Right To Sell the real property known as 13 Chardonnay, Irvine, California, owned by Rueben and Christine Padilla. Nor was it established that respondent recommended renting the property, which had become vacant due to the military deployment overseas, to a friend named Denise Koval (Koval) as a means of increasing its salability, stating that she would be a "good tenant" and pay her bills. Nor was it established that On September 24, 1997, the Padilla's relying on respondent's representation about Koval, entered into a Residential Lease Or Month-To-Month Rental Agreement with Koval. These unsubstantiated acts, even if true, would not constitute negligence or the making of a substantial misrepresentation such as to justify discipline under the Business and Professions Code.

4. On January 12, 1998, respondent took a listing for an Exclusive Authorization To Rent or Lease for the real property known as 1 Greenleaf Drive, Irvine California, owned by Robert and Dorothy Hoyt. This agreement gave respondent the right to locate a tenant for a one-year lease. After a meeting with Hoyt's son, respondent showed Koval the apartment and entered into an agreement with her for her to lease the apartment, without first running a credit check, receiving payment of the first month's rent or the required security deposit and without the signature of the Hoyts to any written lease. Although Koval entered the premises by means of obtaining of a key to open the lock box herself, respondent showed her the apartment and was responsible for her occupying the premises. Upon discovering Koval's residing on the premises, Hoyt contacted respondent's Broker, who initiated eviction proceedings. Respondent, however, interfered with the eviction process on the basis that he believed Koval was going to pay the rent when it was clearly obvious that she had no ability or intent to do so. Respondent's prior knowledge of her writing bad checks was more than sufficient to put him on notice that she was an unreliable tenant. Further respondent's reliance on Koval's assurances that a prior "friend" would be responsible for the rent was not credible and did not excuse respondent's primary responsibilities to his clients, the Hoyts.

5. Sometime prior to March 1, 1996, an Accusation was filed against respondent for violation of Business and Professions Code sections 10130; 10145(c); 10137; 10177(d); and 10177(g). On March 8, 1996, Administrative Law Judge H. Stuart Waxman issued a Proposed Decision. On January 30, 1997, the Commissioner non-adopted the proposed Decision and issued his own Order revoking respondent's license. On February 17, 1997, respondent petitioned for reconsideration of said Decision. On April 8, 1997, the Commissioner reconsidered his prior Decision and issued a new and different Order granting respondent a restricted license on certain terms and conditions.

6. An analysis of respondent's prior violations resulting in the Commissioner's Order of 1997, in conjunction with his violations in this matter leads to the conclusion that respondent is a danger to the public and apparently has not learned how to conduct himself in accordance with the applicable real estate law. As such the Order below is required to adequately protect the public from respondent.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following:

LEGAL CONCLUSIONS

1. No cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code sections 10177(g), 10177(d), 10176(a) and/or 10177(k), based on Finding 3.

2. Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Profession Code sections) 10177(g), 10177(d), 10176(a), and 10177(k), by reason of Finding 4.

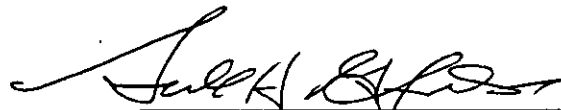
3. In determining the proper disciplinary Order in this proposed decision, consideration has been given to the Proposed Decision dated March 8, 1996 and the Commissioner's Decision of January 30, 1997.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Real Estate salesperson's license ID#00595531, issued to respondent Charles Duffy Riebe is hereby revoked.

Dated: May 30, 2000



Leslie H. Greenfield
Administrative Law Judge
Office of Administrative Hearings

LHG:me

File
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
APR 19 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CHARLES DUFFY RIEBE,

} By K. Mederholt
Case No. H-28209 LA
OAH No. L-1999090160

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 Office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles, CA on May 16, 2000 at the hour of 9:00 a.m., 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: April 17, 2000

By W. L.

Counsel

cc: Charles Duffy Riebe
J. Baron Inc.
Sacto OAH

RE 501 (Rev. 8/97)

kw

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gloss*

FILED
MAR - 1 2000
DEPARTMENT OF REAL ESTATE

By *K. Riederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
CHARLES DUFFY RIEBE,)
Respondent)
_____)

NO. H- 28209 LA
L- 1999090160

NOTICE OF REJECTION AND ORDER REMANDING CASE TO
ADMINISTRATIVE LAW JUDGE TO TAKE ADDITIONAL EVIDENCE
(Section 11517 of the Government Code)

TO: Respondent CHARLES DUFFY RIEBE
and his Counsel RONALD TALMO:

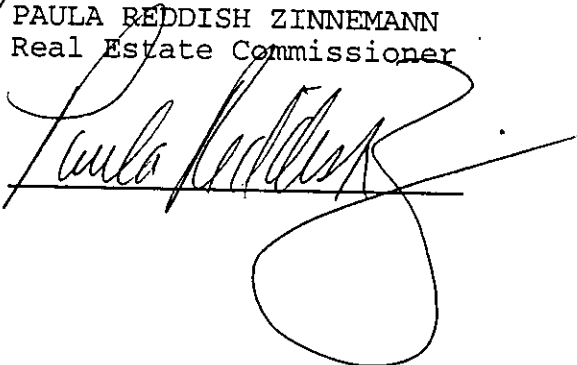
YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated December 21, 1999, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated December 21, 1999, is attached hereto for your consideration.

IT IS HEREBY ORDERED, in accordance with Section 11517(c) of the Government Code, that this case be referred to Leslie H. Greenfield, Administrative Law Judge of the Office of Administrative Hearings, for the sole purpose of receiving



1 additional evidence and clarification regarding the previous
2 discipline imposed on Respondent in Case Number H-1998 SA to
3 determine if the Proposed Decision dated December 21, 1999, in this
4 matter should be changed.

5 DATED: February 23, 2000.

6 PAULA REDDISH ZINNEMANN
7 Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 28 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CHARLES DUFFY RIEBE.

Respondent.

Case No. H-28209 BY K. MacLennan

OAH No. L-1999090160

PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on November 22, 1999.

Elliott MacLennan, Real Estate Counsel, represented the complainant Department of Real Estate. Ronald Talmo, Attorney at Law, represented respondent Charles D. Riebe who was present throughout the hearing.

Oral and documentary evidence and evidence by way of stipulation on the record having been received and the matter submitted, the Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. Thomas McCrady, Deputy Real Estate Commissioner, Department of Real Estate, made the Amended Accusation in his official capacity.

2. Respondent has been licensed as a real estate salesperson since April 13, 1977, under license ID#00595531. On May 23, 1997, a restricted salesperson's license was issued, effective April 29, 1997, pursuant to discipline imposed in Department of Real Estate Case No. H-1998 SA. Said license expires May 22, 2001.

3. It was not established by credible evidence that on July 15, 1997, while engage in licensed activities for Re/Max Premier Realtor located in Irvine, California, respondent took a listing, an Exclusive Authorization and Right To Sell the real property known as 13 Chardonnay, Irvine, California, owned by Rueben and Christine Padilla. Nor was it established that respondent recommended renting the property, which had become vacant due to the military deployment overseas, to a friend named Denise Koval (Koval) as a means of increasing its salability, stating that she would be a "good tenant" and pay her bills. Nor was it established that On September 24, 1997, the Padilla's relying on respondent's representation about Koval, entered into a Residential Lease Or Month-To-Month Rental Agreement with Koval. These unsubstantiated acts, even if true, would not constitute negligence or the making of a substantial misrepresentation such as to justify discipline under the Business and Professions Code.

4. On January 12, 1998, respondent took a listing for an Exclusive Authorization To Rent or Lease for the real property known as 1 Greenleaf Drive, Irvine California, owned by Robert and Dorothy Hoyt. This agreement gave respondent the right to locate a tenant for a one-year lease. After a meeting with Hoyt's son, respondent showed Koval the apartment and entered into an agreement with her for her to lease the apartment, without first running a credit check, receiving payment of the first month's rent or the required security deposit and without the signature of the Hoyts to any written lease. Although Koval entered the premises by means of obtaining of a key to open the lock box herself, respondent showed her the apartment and was responsible for her occupying the premises. Upon discovering Koval's residing on the premises, Hoyt contacted respondent's Broker, who initiated eviction proceedings. Respondent, however, interfered with the eviction process on the basis that he believed Koval was going to pay the rent when it was clearly obvious that she had no ability or intent to do so. Respondent's prior knowledge of her writing bad checks was more than sufficient to put him on notice that she was an unreliable tenant. Further respondent's reliance on Koval's assurances that a prior "friend" would be responsible for the rent was not credible and did not excuse respondent's primary responsibilities to his clients, the Hoyts.

5. Although alleged in the Accusation, no credible evidence was offered to establish the grounds of the prior discipline other than the Decision After Reconsideration and Order by the Real Estate Commissioner. As such it is not possible to determine if respondent's discipline if any should be enhanced by the prior disciplinary Order.

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Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following:

LEGAL CONCLUSIONS

1. No cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code sections 10177(g), 10177(d), 10176(a) and/or 10177(k), based on Finding 3.

2. Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Profession Code sections) 10177(g), 10177(d), 10176(a), and 10177(k), by reason of Finding 4.

4. In determining the proper disciplinary Order in this proposed decision, no consideration has been given to the Commissioner's prior Decision of January 30, 1997.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Real estate salesperson's license ID#00595531 , issued to respondent Charles Duffy Riebe is revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to respondent 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 said 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 nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three years have elapsed from the effective date of the Decision herein.

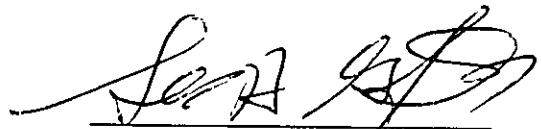
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

- 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 Commissioner that she has taken and successfully completed the courses specified in subdivisions (a) and (b) of Section 10170.5 of the Real Estate Law for renewal of a real estate license. The restricted license issued pursuant to this Decision shall be deemed to be the first renewal of respondent's real estate salesperson license for the purpose of applying the provisions of Section 10153.4. Upon renewal of the license issued pursuant to this Decision or upon reinstatement of Respondent's real estate license, Respondent shall submit evidence of having 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.

- not adopted*
6. Respondent shall, within six months from the effective date of the Decision herein, 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.

Dated: December 21, 1999



Leslie H. Greenfield
Administrative Law Judge
Office of Administrative Hearings.

LHG:me

Handwritten: Party

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 20 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CHARLES DUFFY RIEBE,

By *K. Kederhold*
Case No. H-28209 LA

OAH No. L-1999090160

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 office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles, CA 90013 on November 22, 23, & 24, 1999, at the hour of 9:00 a.m., 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: September 20, 1999

By *[Signature]*
Counsel

cc: Charles Duffy Riebe
RE 501 (Rev. 8/97) Ronald Talmo, Esq.
Sacto OAH SR

kw

*Sacto
File*

ELLIOTT MAC LENNAN SBN 66674
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6911 (Direct)

FILED
AUG 27 1999
DEPARTMENT OF REAL ESTATE

By *K. M. Riebel*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
CHARLES DUFFY RIEBE,)
Respondent.)

No. H-28209 LA

A M E N D E D

A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of accusation against CHARLES DUFFY RIEBE is informed and alleges as follows:

1

CHARLES DUFFY RIEBE (RIEBE) sometimes referred to as Respondent, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).



1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

5 Since April 13, 1977, RIEBE was licensed by the
6 Department of Real Estate (Department) as a real estate
7 salesperson. On May 23, 1997, a restricted salesperson's license
8 was issued, effective April 29, 1997, pursuant to the discipline
9 imposed in H-1998 SA, as more fully set forth in Paragraph 8
10 below.
11

12 On July 15, 1997, while engaged in licensed activities
13 for Re/Max Premier Realty located in Irvine, California, RIEBE
14 took a listing, an Exclusive Authorization And Right To Sell, for
15 the real property known as 13 Chardonnay, Irvine, California,
16 owned by Rueben and Christine Padilla. RIEBE recommended renting
17 the Padilla condominium, which became vacant due to the husband's
18 military deployment overseas, to a friend named Denise Koval as a
19 means of increasing its salability, stating she would be a "good
20 tenant" and pay her bills. On September 24, 1997, the Padilla's,
21 relying on the representations of RIEBE about Koval, entered into
22 a Residential Lease Or Month-To-Month Rental Agreement with Denise
23 Koval (Koval). Koval paid \$500 for the first month's rent and
24 thereafter until evicted on February 28, 1998, failed to pay rent.
25

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1 On January 12, 1998, RIEBE took a listing for an
2 Exclusive Authorization To Rent or Lease for the real property
3 known as 1 Greenleaf Drive, Irvine, California, owned by Robert
4 and Dorothy Hoyt. This agreement gave RIEBE the right to locate a
5 tenant for a one year lease. Despite knowing of Koval's poor
6 payment performance at the Padilla residence RIEBE recommended
7 Koval as a tenant to Hoyt and failed to inform the Hoyt of Koval's
8 history as a Padilla tenant. RIEBE permitted Denise Koval, now in
9 transit from the Padilla eviction, to move in and reside at the
10 premises as of March 1, 1998, without a credit check, payment of
11 the required security deposit or first month's rent. Despite
12 knowing of Koval's unlawful entry RIEBE failed to inform the Hoyts
13 for some eight days of Koval's presence on the property. Upon
14 discovering Koval residing on the premises, Robert Hoyt contacted
15 Dave Romero, the office manager of RIEBE's broker, who ordered
16 RIEBE to initiate eviction proceedings which started on or about
17 March 12, 1998 with the required 3 day notice. After the 3 day
18 notice was lawfully served RIEBE allowed or made it possible for
19 Koval to remain on the Hoyt property until she was forcibly
20 evicted on May 19, 1998.

22 The conduct of RIEBE, as described in Paragraphs 4 and 5
23 constitutes negligence. This conduct and violation are cause for
24 the suspension or revocation of the real estate license and
25 license rights of RIEBE under Section 10177(g) of the Code.
26
27



1 The conduct of RIEBE, as described in Paragraphs 4 and 5
2 constitutes the making of a substantial misrepresentation. This
3 conduct and violation are cause for the suspension or revocation
4 of the real estate license and license rights of RIEBE under
5 Sections 10177(d), and 10176(a) and 10177(k) of the Code.

6 PRIOR DISCIPLINE

7 8

8 On May 24, 1995, in Case No. H-1998 SA, an Accusation
9 was filed against Respondent CHARLES DUFFY RIEBE that resulted in
10 discipline for said respondent for violations of Sections 10130,
11 10137, 10145(c), 10177(d) and 10177(g) of the California Business
12 and Professions Code.

13
14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof,
16 a decision be rendered imposing disciplinary action against the
17 license and license rights of Respondent CHARLES DUFFY RIEBE under
18 the Real Estate Law (Part 1 of Division 4 of the Business and
19 Professions Code) and for such other and further relief as may be
20 proper under other applicable provisions of law.

21
22 Dated at Los Angeles, California
23 this 27th day of August, 1999.

24 THOMAS MC-CRADY

Deputy Real Estate Commissioner

25 cc: Charles Duffy Riebe
26 Sacto
27 SR



ELLIOTT MAC LENNAN SBN 66674
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6911 (Direct)

FILED
AUG - 9 1999
DEPARTMENT OF REAL ESTATE

By *K. K. K. K.*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
CHARLES DUFFY RIEBE,)
Respondent.)

No. H-28209 LA

A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of accusation against CHARLES DUFFY RIEBE is informed and alleges as follows:

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3

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4

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23 Koval (Koval). Koval paid \$500 for the first month's rent and
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6

The conduct of RIEBE, as described in Paragraphs 4 and 5 constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of RIEBE under Section 10177(g) of the Code.

7

The conduct of RIEBE, as described in Paragraphs 4 and 5 constitutes the making of a substantial misrepresentation. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of RIEBE under Sections 10177(d), and 10176(a) and 10177(k) of the Code.

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PRIOR DISCIPLINE

8

On May 24, 1995, in Case No. H-1998 SA, an Accusation was filed against Respondent CHARLES DUFFY RIEBE that resulted in discipline for said respondent for violations of Sections 10130, 10137, 10145(c), 10177(d) and 10177(g) of the California Business and Professions 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 the license and license rights of Respondent CHARLES DUFFY RIEBE 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 applicable provisions of law.

Dated at Los Angeles, California
this 9th day of August, 1999.

THOMAS MC CRADY

Deputy Real Estate Commissioner

cc Charles Duffy Riebe
Sacto
SR