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FILED

JUL 20 2022

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-42353 LA
	)	
FRANK DONALD GERACI, III	)	ACCUSATION
	)	
Respondent.	)	

The Complainant, Jason Parson, acting in his official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against FRANK DONALD GERACI, III ("Respondent"), is informed and alleges as follows:

1.

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

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DRE Accusation against Frank Donald Geraci, III, H-42353 LA

1 **DEPARTMENT OF REAL ESTATE ("DRE") LICENSE HISTORY**

2 2.

3 According to DRE records to date and publicly accessible on the DRE's website
4 (https://www2.dre.ca.gov/PublicASP/pplinfo.asp?License_id=00878827), Respondent is
5 presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of
6 the Code) as a real estate salesperson ("RES"), Department of Real Estate ("DRE") license ID
7 00878827.

8 3.

9 According to DRE records to date and publicly accessible on the
10 aforementioned DRE website, Respondent was originally licensed on or about January 1, 1985.

11 4.

12 According to DRE records to date and publicly accessible on the
13 aforementioned DRE website, Respondent's mailing address of record on file with the DRE is
14 1380 Miller Drive, Los Angeles, CA 90069-1437.

15 5.

16 According to DRE records to date and publicly accessible on the
17 aforementioned DRE website, Respondent's DRE license has no prior history of disciplinary
18 action and will expire on January 10, 2025. Upon license expiration, pursuant to Code Section
19 10201, Respondent will retain renewal rights, and pursuant to Code Section 10103, the DRE
20 will retain jurisdiction.

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27 DRE Accusation against Frank Donald Geraci, III, H-42353 LA

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1 7.

2 According to court records certified on March 10, 2021, on or about June 4,
3 2021, in Case No. FWV19001358, Respondent pled guilty to one count for violation of PC
4 287(b)(1) (oral copulation of a person under 18) (Count 1), a felony.

5 8.

6 According to court records certified on March 10, 2021, on or about July 28,
7 2021, in Case No. FWV19001358, the Court sentenced Respondent to two (2) years
8 formal/supervised probation, subject to specific terms and conditions, including, but not limited
9 to: Respondent's completion of a sex offender treatment program and an HIV/AIDS education
10 program; Respondent's payment of fines and restitution to the victim(s) in an amount to be
11 determined; Respondent's restricted use of computer or internet device(s) except in the course
12 of employment of with the probation officer's prior approval; and Respondent's Tier 1
13 registration pursuant to PC 290.006². In addition, the Court ordered that in lieu of work release
14 and electronic monitoring, it would allow Respondent to complete 365 days of home

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16 ² Pursuant to PC 290.006: "(a) Any person ordered by any court to register pursuant to the act, who is not required
17 to register pursuant to Section 290, shall so register, if the court finds at the time of conviction or sentencing that
the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court
shall state on the record the reasons for its findings and the reasons for requiring registration.

18 (b) The person shall register as a tier one offender in accordance with paragraph (1) of subdivision (d) of Section
290, unless the court finds the person should register as a tier two or tier three offender and states on the record the
reasons for its finding.

19 (c) In determining whether to require the person to register as a tier two or tier three offender, the court shall
consider all of the following:

20 (1) The nature of the registerable offense.

21 (2) The age and number of victims, and whether any victim was personally unknown to the person at the time of
the offense. A victim is personally unknown to the person for purposes of this paragraph if the victim was known
to the offender for less than 24 hours.

22 (3) The criminal and relevant noncriminal behavior of the person before and after conviction for the registerable
23 offense.

24 (4) Whether the person has previously been arrested for, or convicted of, a sexually motivated offense.

25 (5) The person's current risk of sexual or violent reoffense, including the person's risk level on the SARATSO
static risk assessment instrument, and, if available from past supervision for a sexual offense, the person's risk
level on the SARATSO dynamic and violence risk assessment instruments.

26 (d) This section shall become operative on January 1, 2021."

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1 confinement (with credit for fourteen (14) days), with exceptions for release from home
2 confinement for work, counseling, medical appointments, education and grocery shopping.

3 (FAILURES TO REPORT)

4 9.

5 Respondent did not report in writing to the Department, the June 24, 2020
6 Information in the Superior Court of the State of California, County of San Bernardino, Case
7 No. 2019-00-0022162 (FWV19001358), The People of the State of California vs. Frank
8 Donald Geraci, III, as described above in Paragraph 6, within thirty (30) days of said
9 Information.

10 10.

11 Respondent did not report in writing to the Department, the June 4, 2021 guilty
12 plea in the Superior Court of the State of California, County of San Bernardino, Case No. 2019-
13 00-0022162 (FWV19001358), The People of the State of California vs. Frank Donald Geraci,
14 III, as described above in Paragraph 7, within thirty (30) days of said plea.

15 11.

16 According to the Department's Custodian of Business Records, Respondent
17 submitted an Indictment, Conviction, and Disciplinary Action Notification (DRE Form RE238
18 (Rev. 6/19) ("Form RE238) signed and dated July 27, 2020 which referenced San Bernardino
19 County Case Number FWV19001358; in the field for "Date of Conviction," Respondent filled
20 in "05/08/20" and listed as "Code Section Violated, Code Violated," "286, 287, 289
21 (b)(1)/(c)(1)." Respondent's Form RE238 was received by the DRE on August 3, 2020.

22 12.

23 According to the Department's Custodian of Business Records, Respondent
24 submitted a Salesperson Renewal Application (DRE Form RE209 (Rev. 6/19) ("Form RE209")
25 signed and dated October 20, 2020 which referenced San Bernardino County Case Number

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1 FWV19001358; in the field for "Date of Conviction, Respondent filled in "5/19" and listed as
2 Code Section Violated, Code Violated, "288, 288.4" with a notation of "Pending" in the field
3 for "Disposition." Respondent's Form RE209 was received by the DRE on October 22, 2020.

4 13.

5 Respondent did not report in writing to the Department, the aforementioned
6 felony conviction in the Superior Court of the State of California, County of San Bernardino,
7 Case No. 2019-00-0022162 (FWV19001358), The People of the State of California vs. Frank
8 Donald Geraci, III, as described above in Paragraph 8, within thirty (30) days of said July 28,
9 2021 conviction.

10 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

11 14.

12 Code Section 490

13 Pursuant to Code Section 490 *Conviction of Crime – Relationship of Crime to*
14 *Licensed Activity:*

15 "(a) In addition to any other action that a board is permitted to take against a
16 licensee, a board may suspend or revoke a license on the ground that the licensee has been
17 convicted of a crime, if the crime is substantially related to the qualifications, functions, or
18 duties of the business or profession for which the license was issued.

19 (b) Notwithstanding any other provision of law, a board may exercise any
20 authority to discipline a licensee for conviction of a crime that is independent of the authority
21 granted under subdivision (a) only if the crime is substantially related to the qualifications,
22 functions, or duties of the business or profession for which the licensee's license was issued.

23 (c) A conviction within the meaning of this section means a plea or verdict of
24 guilty or a conviction following a plea of nolo contendere. An action that a board is permitted
25 to take following the establishment of a conviction may be taken when the time for appeal has
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1 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting
2 probation is made suspending the imposition of sentence, irrespective of a subsequent order
3 under Section 1203.4 of the Penal Code.

4 (d) The Legislature hereby finds and declares that the application of this section
5 has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142
6 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes
7 and regulations in question, resulting in potential harm to the consumers of California from
8 licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that
9 this section establishes an independent basis for a board to impose discipline upon a licensee,
10 and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not
11 constitute a change to, but rather are declaratory of, existing law.”

12 15.

13 Regulation 2910

14 Pursuant to Regulation 2910 *Criteria of Substantial Relationship:*

15 “(a) When considering whether a license should be denied, suspended or
16 revoked on the basis of the conviction of a crime, or on the basis of an act described in Section
17 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related
18 to the qualifications, functions or duties of a licensee of the Bureau within the meaning of
19 Sections 480 and 490 of the Code if it involves:

20 (1) The fraudulent taking, obtaining, appropriating or retaining of funds
21 or property belonging to another person.

22 (2) Counterfeiting, forging or altering of an instrument or the uttering of
23 a false statement.

24 (3) Willfully attempting to derive a personal financial benefit through the
25 nonpayment or underpayment of taxes, assessments or levies duly
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1 imposed upon the licensee or applicant by federal, state, or local
2 government.

3 (4) The employment of bribery, fraud, deceit, falsehood or
4 misrepresentation to achieve an end.

5 (5) Sexually related conduct affecting a person who is an observer or
6 non-consenting participant in the conduct or convictions which require
7 registration pursuant to the provisions of Section 290 of the Penal Code.

8 (6) Willfully violating or failing to comply with a provision of Division 4
9 of the Business and Professions Code of the State of California.

10 (7) Willfully violating or failing to comply with a statutory requirement
11 that a license, permit or other entitlement be obtained from a duly
12 constituted public authority before engaging in a business or course of
13 conduct.

14 (8) Doing of any unlawful act with the intent of conferring a financial or
15 economic benefit upon the perpetrator or with the intent or threat of
16 doing substantial injury to the person or property of another.

17 (9) Contempt of court or willful failure to comply with a court order.

18 (10) Conduct which demonstrates a pattern of repeated and willful
19 disregard of law.

20 (11) Two or more convictions involving the consumption or use of
21 alcohol or drugs when at least one of the convictions involve driving and
22 the use or consumption of alcohol or drugs.

23 (b) The conviction of a crime constituting an attempt, solicitation or conspiracy
24 to commit any of the above enumerated acts or omissions is also deemed to be substantially
25 related to the qualifications, functions or duties of a licensee of the department.

1 (c) If the crime or act is substantially related to the qualifications, functions or
2 duties of a licensee of the department, the context in which the crime or acts were committed
3 shall go only to the question of the weight to be accorded to the crime or acts in considering the
4 action to be taken with respect to the applicant or licensee.”

5 16.

6 Code Section 10177

7 (selected portions)

8 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

9 “The commissioner may suspend or revoke the license of a real estate licensee,
10 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an
11 applicant, who has done any of the following, or may suspend or revoke the license of a
12 corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to
13 a corporation, if an officer, director, or person owning or controlling 10 percent or more of the
14 corporation’s stock has done any of the following:

15 (a) Procured, or attempted to procure, a real estate license or license
16 renewal, for themselves or a salesperson, by fraud, misrepresentation, or
17 deceit, or by making a material misstatement of fact in an application for
18 a real estate license, license renewal, or reinstatement.

19 (b) (1) Entered a plea of guilty or no contest to, or been found guilty of,
20 or been convicted of, a felony, or a crime substantially related to the
21 qualifications, functions, or duties of a real estate licensee, and the time
22 for appeal has elapsed or the judgment of conviction has been affirmed
23 on appeal, irrespective of an order granting probation following that
24 conviction, suspending the imposition of sentence, or of a subsequent
25 order under Section 1203.4 of the Penal Code allowing that licensee to
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1 withdraw that licensee's plea of guilty and to enter a plea of not guilty,
2 or dismissing the accusation or information.

3 (2) Notwithstanding paragraph (1), and with the recognition that
4 sentencing may not occur for months or years following the entry
5 of a guilty plea, the commissioner may suspend the license of a
6 real estate licensee upon the entry by the licensee of a guilty plea
7 to any of the crimes described in paragraph (1). If the guilty plea
8 is withdrawn, the suspension shall be rescinded and the license
9 reinstated to its status prior to the suspension. The department
10 shall notify a person whose license is subject to suspension
11 pursuant to this paragraph of that person's right to have the issue
12 of the suspension heard in accordance with Section 10100..."

13 17.

14 Code Section 10186.2

15 (Reporting)

16 Pursuant to Code Section 10186.2 *Reporting of Convictions, Indictments and*
17 *License Disciplinary Actions:*

18 "(a) (1) A licensee shall report any of the following to the department:

19 (A) The bringing of a criminal complaint, information, or indictment
20 charging a felony against the licensee.

21 (B) The conviction of the licensee, including any verdict of guilty, or
22 plea of guilty or no contest, of any felony or misdemeanor.

23 (C) Any disciplinary action taken by another licensing entity or authority
24 of this state or of another state or an agency of the federal government.

25 (2) The report required by this subdivision shall be made in writing within 30
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1 days of the date of the bringing of the indictment or the charging of a
2 felony, the conviction, or the disciplinary action.

3 (b) Failure to make a report required by this section shall constitute a cause for
4 discipline.”

5 18.

6 Code Section 10106

7 (Costs)

8 Pursuant to Code Section 10106 *Cost Recovery of Investigations:*

9 “(a) Except as otherwise provided by law, in any order issued in resolution of a
10 disciplinary proceeding before the department, the commissioner may request the
11 administrative law judge to direct a licensee found to have committed a violation of this part to
12 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
14 order may be made against the licensed corporate entity or licensed partnership.

15 (c) A certified copy of the actual costs, or a good faith estimate of costs where
16 actual costs are not available, signed by the commissioner or the commissioner’s designated
17 representative, shall be prima facie evidence of reasonable costs of investigation and
18 prosecution of the case. The costs shall include the amount of investigative and enforcement
19 costs up to the date of the hearing, including, but not limited to, charges imposed by the
20 Attorney General.

21 (d) The administrative law judge shall make a proposed finding of the amount of
22 reasonable costs of investigation and prosecution of the case when requested pursuant to
23 subdivision (a). The finding of the administrative law judge with regard to costs shall not be
24 reviewable by the commissioner to increase the cost award. The commissioner may reduce or

1 eliminate the cost award, or remand to the administrative law judge where the proposed
2 decision fails to make a finding on costs requested pursuant to subdivision (a).

3 (e) Where an order for recovery of costs is made and timely payment is not
4 made as directed in the commissioner's decision, the commissioner may enforce the order for
5 repayment in any appropriate court. This right of enforcement shall be in addition to any other
6 rights the commissioner may have as to any licensee to pay costs.

7 (f) In any action for recovery of costs, proof of the commissioner's decision
8 shall be conclusive proof of the validity of the order of payment and the terms for payment.

9 (g) (1) Except as provided in paragraph (2), the department shall not renew or
10 reinstate the license of any licensee who has failed to pay all of the costs ordered under this
11 section.

12 (2) The department may, in its discretion, conditionally renew or reinstate
13 for a maximum of one year the license of any licensee who demonstrates
14 financial hardship and who enters into a formal agreement with the
15 department to reimburse the department within that one-year period for the
16 unpaid costs.

17 (h) All costs recovered under this section shall be considered a reimbursement
18 for costs incurred and shall be deposited in the Real Estate Fund to be available,
19 notwithstanding Section 10451, upon appropriation by the Legislature.

20 (i) Nothing in this section shall preclude the department from including the
21 recovery of the costs of investigation and enforcement of a case in any stipulated settlement."

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FIRST CAUSE FOR DISCIPLINE
(SUBSTANTIALLY RELATED CRIME)

19.

The crime of which Respondent was convicted (PC Section 287(b)(1) – oral copulation of a person under 18, a felony), as described above in Paragraphs 6 through 8, in San Bernardino County Case No. FMV19001358, The People of the State of California vs. Frank Donald Geraci, III, by its facts and circumstances, bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

20.

The crime of which Respondent was convicted (PC Section 287(b)(1) – oral copulation of a person under 18, a felony), as described above in Paragraphs 6 through 8, in San Bernardino County Case No. FMV19001358, The People of the State of California vs. Frank Donald Geraci, III, constitutes cause under **Code Sections 490 and 10177(b)** for the suspension or revocation of Respondent's RES license, license rights and associated license endorsements, if any, under the Real Estate Law.

SECOND CAUSE FOR DISCIPLINE
(FAILURE TO REPORT FELONY INFORMATION)

21.

Respondent's failure to report the Information in San Bernardino County Case No. FMV19001358, The People of the State of California vs. Frank Donald Geraci, III, as described above in Paragraphs 6 and 9, constitutes cause for discipline under **Code Section 10186.2** of the RES license, license rights and associated license endorsements of Respondent under the Real Estate Law.

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DRE Accusation against Frank Donald Geraci, III, H-42353 LA

THIRD CAUSE FOR DISCIPLINE
(FAILURE TO REPORT FELONY CONVICTION)

22.

Respondent's failure to report the felony conviction in San Bernardino County Case No. FMV19001358, The People of the State of California vs. Frank Donald Geraci, III, as described above in Paragraphs 7, 8, and 10, constitutes cause for discipline under **Code Section 10186.2** of the RES license, license rights and associated license endorsements of Respondent under the Real Estate Law.

COSTS

23.

Code Section 10106 provides, in pertinent part that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

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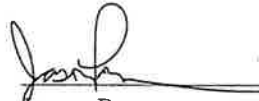
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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all licenses and/or license rights and/or associated license
4 endorsements under the Real Estate Law (Part 1 of Division 4 of the California Business and
5 Professions Code) of FRANK DONALD GERACI, III, for the cost of investigation and
6 enforcement as permitted by law, and for such other and further relief as may be proper under
7 applicable provisions of law.

8 Dated at Los Angeles,

9 this 20th day of July, 2022.

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Jason Parson
Supervising Special Investigator

cc: Frank Donald Geraci, III.
Dunn Property Group Inc. (D.O.: Michael Joseph Dunn)
LA Enforcement – J. Parson,
Sacto.