

1 Julie L. To, Counsel (SBN 219482)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013  
5 Telephone: (213) 576-6982  
(Direct) (213) 576-6916  
julie.to@dre.ca.gov  
6 *Counsel for Complainant*

**FILED**

**JUN 06 2024**

**DEPT. OF REAL ESTATE**

By 

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9  
10 BEFORE THE DEPARTMENT OF REAL ESTATE  
11 STATE OF CALIFORNIA

12 \* \* \*

13 In the Matter of the Application of ) No. H-42857 LA  
14 )  
GAURAV DABRAL DATTA, ) Statement of Issues  
15 ) Real Estate Salesperson Application  
Respondent. )  
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17 The Complainant, Ray Dagnino, a Supervising Special Investigator of the State  
18 of California, makes this Statement of Issues against GAURAV DABRAL DATTA a.k.a.  
19 Gaurav D. Datta (Respondent) in his official capacity and alleges as follows:

20 1.

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

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27 DRE Statement of Issues on Application: Gaurav Dabral Datta, H-42857 LA

1 **DRE APPLICATION**

2 2.

3 On or about August 24, 2023, Respondent submitted a Salesperson License  
4 Application (Form RE 202, Rev. 02/22) to the Department of Real Estate (DRE or Department)  
5 of the State of California for a real estate salesperson (RES) license.

6 **LICENSE DISCIPLINE BY ANOTHER CALIFORNIA AGENCY**

7 3.

8 **02-03-19 Disbarment**

9 (Supreme Court of California, State Bar Court No. 16-O-15393)

10 According to certified court records (certified on December 19, 2023), in the  
11 Supreme Court of California, in State Bar Court No. 16-O-15393, on January 4, 2019,  
12 Respondent (State Bar Number 269338) was disbarred from the practice of law in California  
13 and his name was stricken from the roll of attorneys, pursuant to State Bar Rules of Procedure  
14 Section 5.85(F)(1)(d), for violation of Rule 4-100(A) of the Rules of Professional Conduct (two  
15 counts) and Section 6106 (moral turpitude, dishonesty or corruption – intentional  
16 misappropriation of client funds (four counts), effective February 3, 2019.

17 **SECTIONS OF THE REAL ESTATE LAW APPLICABLE TO DRE APPLICATIONS**

18 4.

19 **Grounds for Denial of a License**

20 (Code Section 475)

21 Pursuant to Code Section 475 *Grounds for Denial of a License*:

22 “(a) Notwithstanding any other provisions of this code, the provisions of this  
23 division shall govern the denial of licenses on the grounds of: (1) Knowingly making a false  
24 statement of material fact, or knowingly omitting to state a material fact, in an application for a  
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1 license. (2) Conviction of a crime. (3) Commission of any act involving dishonesty, fraud or  
2 deceit with the intent to substantially benefit himself or another, or substantially injure another.  
3 (4) Commission of any act which, if done by a licentiate of the business or profession in  
4 question, would be grounds for suspension or revocation of license. (b) Notwithstanding any  
5 other provisions of this code, the provisions of this division shall govern the suspension and  
6 revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a). (c) A  
7 license shall not be denied, suspended, or revoked on the grounds of a lack of good moral  
8 character or any similar ground relating to an applicant's character, reputation, personality, or  
9 habits."

10 5.

11 Denial of License by Board

12 (Code Section 480)

13 Pursuant to Code Section 480 *Denial of License by Board*:

14 "(a) Notwithstanding any other provision of this code, a board may deny a  
15 license regulated by this code on the grounds that the applicant has been convicted of a crime  
16 or has been subject to formal discipline only if either of the following conditions are met:

17 (1) The applicant has been convicted of a crime within the preceding  
18 seven years from the date of application that is substantially related to the  
19 qualifications, functions, or duties of the business or profession for which the  
20 application is made, regardless of whether the applicant was incarcerated for that  
21 crime, or the applicant has been convicted of a crime that is substantially related  
22 to the qualifications, functions, or duties of the business or profession for which  
23 the application is made and for which the applicant is presently incarcerated or  
24 for which the applicant was released from incarceration within the preceding

1 seven years from the date of application. However, the preceding seven-year  
2 limitation shall not apply in either of the following situations:

3 (A) The applicant was convicted of a serious felony, as defined in  
4 Section 1192.7 of the Penal Code or a crime for which  
5 registration is required pursuant to paragraph (2) or (3) of  
6 subdivision (d) of Section 290 of the Penal Code.

7 (B) The applicant was convicted of a financial crime currently  
8 classified as a felony that is directly and adversely related to the  
9 fiduciary qualifications, functions, or duties of the business or  
10 profession for which the application is made, pursuant to  
11 regulations adopted by the board, and for which the applicant is  
12 seeking licensure under any of the following:

13 (i) Chapter 1 (commencing with Section 5000) of Division 3.

14 (ii) Chapter 6 (commencing with Section 6500) of Division 3.

15 (iii) Chapter 9 (commencing with Section 7000) of Division 3.

16 (iv) Chapter 11.3 (commencing with Section 7512) of

17 Division 3.

18 (v) Licensure as a funeral director or cemetery manager under  
19 Chapter 12 (commencing with Section 7600) of Division 3.

20 (vi) Division 4 (commencing with Section 10000).

21 (2) The applicant has been subjected to formal discipline by a licensing  
22 board in or outside California within the preceding seven years from the date of  
23 application based on professional misconduct that would have been cause for  
24 discipline before the board for which the present application is made and that is  
25

1 substantially related to the qualifications, functions, or duties of the business or  
2 profession for which the present application is made. However, prior  
3 disciplinary action by a licensing board within the preceding seven years shall  
4 not be the basis for denial of a license if the basis for that disciplinary action was  
5 a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a,  
6 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or  
7 expungement.

8 (b) Notwithstanding any other provision of this code, a person shall not be  
9 denied a license on the basis that the person has been convicted of a crime, or on the basis of  
10 acts underlying a conviction for a crime, if that person has obtained a certificate of  
11 rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the  
12 Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made  
13 a showing of rehabilitation pursuant to Section 482.

14 (c) Notwithstanding any other provision of this code, a person shall not be  
15 denied a license on the basis of any conviction, or on the basis of the acts underlying the  
16 conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or  
17 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has  
18 a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42  
19 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report  
20 furnished by the Department of Justice.

21 (d) Notwithstanding any other provision of this code, a board shall not deny a  
22 license on the basis of an arrest that resulted in a disposition other than a conviction, including  
23 an arrest that resulted in an infraction, citation, or a juvenile adjudication.

1 (e) A board may deny a license regulated by this code on the ground that the  
2 applicant knowingly made a false statement of fact that is required to be revealed in the  
3 application for the license. A board shall not deny a license based solely on an applicant's  
4 failure to disclose a fact that would not have been cause for denial of the license had it been  
5 disclosed.

6 (f) A board shall follow the following procedures in requesting or acting on an  
7 applicant's criminal history information:

8 (1) A board issuing a license pursuant to Chapter 3 (commencing with  
9 Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10  
10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800),  
11 or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3  
12 (commencing with Section 19000) or Chapter 3.1 (commencing with Section  
13 19225) of Division 8 may require applicants for licensure under those chapters  
14 to disclose criminal conviction history on an application for licensure.

15 (2) Except as provided in paragraph (1), a board shall not require an  
16 applicant for licensure to disclose any information or documentation regarding  
17 the applicant's criminal history. However, a board may request mitigating  
18 information from an applicant regarding the applicant's criminal history for  
19 purposes of determining substantial relation or demonstrating evidence of  
20 rehabilitation, provided that the applicant is informed that disclosure is  
21 voluntary and that the applicant's decision not to disclose any information shall  
22 not be a factor in a board's decision to grant or deny an application for licensure.

1 (3) If a board decides to deny an application for licensure based solely or  
2 in part on the applicant's conviction history, the board shall notify the applicant  
3 in writing of all of the following:

4 (A) The denial or disqualification of licensure.

5 (B) Any existing procedure the board has for the applicant to  
6 challenge the decision or to request reconsideration.

7 (C) That the applicant has the right to appeal the board's  
8 decision. (D) The processes for the applicant to request a copy of  
9 the applicant's complete conviction history and question the  
10 accuracy or completeness of the record pursuant to Sections  
11 11122 to 11127 of the Penal Code.

12 (g) (1) For a minimum of three years, each board under this code shall retain  
13 application forms and other documents submitted by an applicant, any notice provided to an  
14 applicant, all other communications received from and provided to an applicant, and criminal  
15 history reports of an applicant.

16 (2) Each board under this code shall retain the number of applications  
17 received for each license and the number of applications requiring inquiries regarding criminal  
18 history. In addition, each licensing authority shall retain all of the following information:

19 (A) The number of applicants with a criminal record who  
20 received notice of denial or disqualification of licensure.

21 (B) The number of applicants with a criminal record who  
22 provided evidence of mitigation or rehabilitation.

23 (C) The number of applicants with a criminal record who  
24 appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature identified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020."

6.

Criteria of Substantial Relationship

(Regulation 2910)

Pursuant to Regulation 2910 *Criteria of Substantial Relationship*:

"(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) of the Code, the crime or act may be deemed to be substantially related to the



1 qualifications, functions or duties of a licensee of the Department within the meaning of  
2 Sections 480 and 490 of the Code if it involves any of the following characteristics:

- 3 (1) The fraudulent taking, obtaining, appropriating or retaining of funds  
4 or property belonging to another person.
- 5 (2) Counterfeiting, forging or altering of an instrument or the uttering of  
6 a false statement.
- 7 (3) Willfully attempting to derive a personal financial benefit through the  
8 nonpayment or underpayment of taxes, assessments or levies duly  
9 imposed upon the licensee or applicant by federal, state, or local  
10 government.
- 11 (4) The employment of bribery, fraud, deceit, falsehood or  
12 misrepresentation to achieve an end.
- 13 (5) Sexually related conduct affecting a person who is an observer or  
14 non-consenting participant in the conduct or convictions which require  
15 registration pursuant to the provisions of Section 290 of the Penal Code.
- 16 (6) Willfully violating or failing to comply with a provision of Division 4  
17 of the Business and Professions Code of the State of California.
- 18 (7) Willfully violating or failing to comply with a statutory requirement  
19 that a license, permit or other entitlement be obtained from a duly  
20 constituted public authority before engaging in a business or course of  
21 conduct.
- 22 (8) Doing of any unlawful act with the intent of conferring a financial or  
23 economic benefit upon the perpetrator or with the intent or threat of  
24 doing substantial injury to the person or property of another.

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

2 (10) Conduct which demonstrates a pattern of repeated and willful  
3 disregard of law.

4 (11) Two or more convictions involving the consumption or use of  
5 alcohol or drugs when at least one of the convictions involve driving and  
6 the use or consumption of alcohol or drugs.

7 (b) The conviction of a crime constituting an attempt, solicitation or conspiracy  
8 to commit any of the above enumerated acts or omissions may also be deemed to be  
9 substantially related to the qualifications, functions or duties of a licensee of the Department.

10 (c) The nature and gravity of the offense, the number of years that have elapsed  
11 since the date of the offense, and the nature and duties of a real estate licensee shall be taken  
12 into consideration when determining whether to deem an offense to be substantially related to  
13 the qualifications, functions or duties of a licensee. The Department's consideration of these  
14 factors in assessing the substantial relationship of an offense does not alter, or act in place of,  
15 consideration of these same factors in the Criteria for Rehabilitation."

16 7.

17 Further Grounds for Disciplinary Action

18 (Code Section 10177, selected portions)

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

20 "The commissioner may suspend or revoke the license of a real estate licensee,  
21 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an  
22 applicant, who has done any of the following, or may suspend or revoke the license of a  
23 corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to  
24

1 a corporation, if an officer, director, or person owning or controlling 10 percent or more of the  
2 corporation's stock has done any of the following:

3  
4 (f) Acted or conducted themselves in a manner that would have warranted  
5 the denial of their application for a real estate license, or either had a  
6 license denied or had a license issued by another agency of this state,  
7 another state, or the federal government revoked, surrendered, or  
8 suspended for acts that, if done by a real estate licensee, would be  
9 grounds for the suspension or revocation of a California real estate  
10 license, if the action of denial, revocation, surrender, or suspension by  
11 the other agency or entity was taken only after giving the licensee or  
12 applicant fair notice of the charges, an opportunity for a hearing, and  
13 other due process protections comparable to the Administrative  
14 Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter  
15 4 (commencing with Section 11370), and Chapter 5 (commencing with  
16 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
17 Code), and only upon an express finding of a violation of law by the  
18 agency or entity.”

19  
20 **CAUSE FOR DENIAL**

21 8.

22 The disbarment of which Respondent suffered, as described above in Paragraph  
23 3, by its facts and circumstances, bears a substantial relationship to the qualifications, functions  
24 or duties of a real estate licensee pursuant to **Section 2910, Title 10, Chapter 6, California**  
25 **Code of Regulations.**

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9.

The disbarment of which Respondent suffered, as described above in Paragraph 3, constitute cause for denial of Respondent's application for a real estate salesperson license pursuant to **California Business and Professions Code Sections 475(a)(3), 475(a)(4), 480(a)(2), and 10177(f).**

10.

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the California Government Code.

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent **GAURAV DABRAL DATTA**, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California: June 5, 2024

  
Ray Dagnino  
Supervising Special Investigator

cc: Gaurav Dabral Datta  
LA Enforcement – R. Dagnino  
Sacto.

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