

1 Department of Real Estate
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3 Sacramento, CA 95818-7007

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FILED

NOV 14 2012

DEPARTMENT OF REAL ESTATE
By R. Mat

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10
11 To:

12 JOHN ANTHONY ALCANTAR.
13
14

) NO. H-5911 SAC

) ORDER TO DESIST AND REFRAIN
) (B&P Code Section 10086)

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16 The Commissioner ("the Commissioner") of the California Department of Real
17 Estate ("the Department") caused an investigation to be made of the activities of JOHN
18 ANTHONY ALCANTAR ("Respondent"). Based on that investigation, the Commissioner has
19 determined that Respondent has engaged in, is engaging in, or is attempting to engage in, acts or
20 practices constituting violations of the California Business and Professions Code ("Code")
21 and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including acting in
22 the capacity of, advertising or assuming to act as a real estate broker in the State of California
23 within the meaning of Sections 10130 (broker license requirement), 10131(a) (selling/buying
24 real property) and 10131(b) of the Code (property management/collection of rent) of the Code.
25 Furthermore, based on the investigation, the Commissioner hereby issues the following Findings
26 of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086
27 of the Code.

FINDINGS OF FACT

1
2 1. At all times relevant, Respondent was and now is licensed by the
3 Department as a real estate salesperson.

4 2 At no time has Tania Wache ("Wache") been licensed by the Department
5 to conduct real estate activity in the State of California.

6 3. At all times relevant, Lee Ann Brady ("Brady") was and now is licensed
7 by the Department as a real estate broker and conducted real estate activity using the fictitious
8 business name "24/7 Real Estate" ("24/7").

9 4. At all times relevant, Kirk Adam Tainsh ("Tainsh") was and now is
10 licensed by the Department as a real estate salesperson and was the branch manager of 24/7.

11 5. On or about August 5, 2009, a lease agreement with an option to buy was
12 drafted between Wache and property owner Bruce M. for the real property located at 5011
13 Dapple Grey, Redding, California. According to that agreement, Respondent was listed as being
14 authorized to receive the acceptance of any offer on behalf of Wache. In addition, Brady, doing
15 business as 24/7, was listed as the cooperating broker to the transaction with Respondent
16 identified as the agent.

17 6. On or about August 5, 2009, a residential lease agreement was drafted
18 between Wache and Bruce M. for the Dapple Grey property. That lease agreement expressly
19 stated that Wache was not authorized to sublet the property without Bruce M.'s prior written
20 consent. Throughout the document, 24/7 was listed as maintaining the agency relationship for
21 both Wache and Respondent. In addition, Respondent was identified as the agent of 24/7.

22 7. A residential purchase agreement was drafted with an offer on the Dapple
23 Grey property from Wache with escrow scheduled to close on November 30, 2012. Throughout
24 the document, Respondent was listed as the acting agent for 24/7 for both Wache and Bruce M.
25 Included with that purchase agreement was a transfer disclosure statement which indicated that
26 Respondent was operating as the agent on behalf of 24/7. Agency relationship disclosure forms
27 indicated that Respondent, as an agent of 24/7, was representing both Wache and Bruce M.

1 According to Bruce M., he was led to believe that Respondent was the broker of 24/7. Bruce
2 M. confirmed there was never any listing agreement with 24/7 to list the Dapple Grey property
3 and that Respondent had informed Bruce M. that such a listing agreement was not necessary
4 because he was facilitating a private sale between Wache and Bruce M.

5 8. On or about June 10, 2010, Wache collected a \$30 rental application
6 screening fee from prospective tenants Steve H. and Heather J. On or about July 1, 2010,
7 Heather J. entered into a residential lease agreement with Wache for the Dapple Grey property,
8 with tenancy to commence on July 1, 2010, and to continue month-to-month. Respondent
9 signed the document as the agent for the agreement.

10 9. On or about August 24, 2010, an advertisement appeared on Craigslist
11 indicating the Dapple Grey property would soon be available for rent. The advertisement
12 contained Respondent's e-mail address and Wache's telephone number, along with the direction
13 to "ask for Tania".

14 10. On or about September 10, 2010, Wache sent a letter to Tainsh at 24/7
15 stating that Respondent was her employer and that all property management conducted by her
16 and Respondent had been done as private citizens with no affiliation to 24/7. Both Wache and
17 Respondent signed that document.

18 11. On or about June 7, 2012, Tainsh confirmed to a Deputy Commissioner
19 of the Department's Sacramento District Office that Respondent did not have the permission of
20 24/7 to conduct property management activities during his employment with the company.

21 12. The acts and/or omissions of Respondent as set forth in Paragraphs 5
22 through 11, above, were done without the knowledge or consent of Brady or Tainsh.

23 CONCLUSIONS OF LAW

24 13. Based on the Findings of Fact contained in Paragraphs 1 through 12,
25 above, JOHN ANTHONY ALCANTAR conducted activities requiring a real estate broker
26 license, including, selling or offering to sell, buying or offering to buy, soliciting prospective
27 sellers or purchasers of, soliciting or obtaining lists of, or negotiating the purchase, sale or

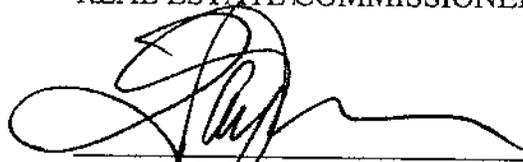
1 exchange of real property; and on behalf of others, for compensation or in expectation of
2 compensation, leased or rented and offered to lease or rent, and solicited for prospective tenants
3 of real property or improvements thereon, and collected rents from real property or
4 improvements thereon in violation of Sections 10130, 10131(a) and 10131(b) of the Code.

5 DESIST AND REFRAIN ORDER

6 Based on the Findings of Fact and Conclusions of Law stated herein, JOHN
7 ANTHONY ALCANTAR, whether doing business under your own name, or any other name
8 or fictitious name, IS HEREBY ORDERED to immediately desist and refrain from performing
9 any acts within the State of California that require a real estate broker license unless and until
10 you are properly licensed by the Department as a real estate broker.

11 DATED: 11/14/2012

12 REAL ESTATE COMMISSIONER

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15 By WAYNE S. BELL
16 Chief Counsel

17 **Notice:** Business and Professions Code Section 10139 provides that, "Any person acting as a
18 real estate broker or real estate salesperson without a license or who advertises using words
19 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
20 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
21 imprisonment in the county jail for a term not to exceed six months, or by both fine and
22 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
23 (\$60,000)...."

24
25 cc: JOHN ANTHONY ALCANTAR
26 P.O. Box 991197
27 Redding, CA 96099

ATTY JWB/km