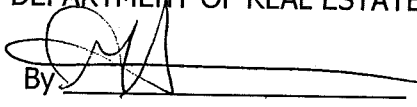


FILED

May 21, 2012

Richard K. Uno, SBN 98275
Department of Real Estate
P. O. Box 187007
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DEPARTMENT OF REAL ESTATE

By 

Telephone: (916) 227-0789
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JESSE BONILLA CANALES and
BETTY T. ROMERO,

Respondent.

) H-2655 FR

) FIRST AMENDED
) ACCUSATION

The Complainant, E. J. HABERER II, in his official capacity as Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JESSE BONILLA CANALES (CANALES) and BETTY T. ROMERO (ROMERO), (collectively RESPONDENTS) is informed and alleges as follows:

1

CANALES 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 (the Code) as a real estate broker.

2

ROMERO is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker.

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Between February 27, 2004, and December 7, 2010, ROMERO and CANALES were operating under the fictitious business name American 1st Mortgage.

4

At all times relevant herein CANALES was an Associate-Broker employed by ROMERO.

5

Whenever reference is made in an allegation in this Accusation to an act or omission of ROMERO and/or CANALES, such allegation shall be deemed to mean that ROMERO, CANALES, the employees, agents and/or real estate licensees employed by or associated with ROMERO and/or CANALES, while acting within the course and scope of their authority and employment with ROMERO and/or CANALES, and committed such act or omission in furtherance of the real estate business or operations of ROMERO and/or CANALES.

6

At all times herein mentioned, ROMERO and/or CANALES engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for or in expectation of compensation, ROMERO and/or CANALES solicited borrowers or lenders for or negotiated loans, loan modifications or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity and/or for residential property resale.

FIRST CAUSE OF ACTION

Audit Violations

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Complainant refers to Paragraphs 1 through 6, above, and incorporates the same herein.

Intermittently between May 5, 2009, and May 29, 2009, the field work for an audit was conducted at ROMERO's main office located 4241 E. Clinton, Fresno, California 93703 and at the Fresno District Office of the Department of Real Estate, Fresno, California wherein the Department's auditor examined ROMERO's records for the period April 1, 2006, to March 31, 2009, (the audit period).

While acting as a real estate broker as described in Paragraph 6, above, and within the audit period, ROMERO accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with the mortgage loan brokerage activities, loan servicing, in-house escrow services and resale activities and deposited or caused to be deposited by RESPONDENTS into one or more bank accounts (herein "trust fund accounts") maintained by RESPONDENTS for the handling of business funds. However, RESPONDENTS did not maintain a trust account where Respondent's deposited or caused to be deposited client funds received in trust.

In the course of the activities described in Paragraph 6, in connection with the collection and disbursement of trust funds, RESPONDENTS:

(a) Failed to designate any of their bank accounts as trust accounts as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations) and in violation of Section 10145 of the Code;

(b) Collected advance fees from the first three individuals listed below under Paragraph 10(c), in violation of Section 10085.5 of the Code;

(c) Failed to deposit into a trust account, advance fees received from the clients listed below, in violation of Section 10146 of the Code:

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<u>Client</u>	<u>Date Received</u>	<u>Amount Received</u>
Jesus De Leon	08/21/2008	\$1,000.00
Jesus De Leon	09/30/2008	\$ 250.00
Guillermina Herrera	05/28/2009	\$2,500.00
Manuel Rodriguez, Jr.	06/28/2010	\$1,000.00
Manuel Rodriguez, Jr.	07/28/2010	\$1,000.00
Manuel Rodriguez, Jr.	09/08/2010	\$1,500.00

(d) Failed to submit to the Department materials used in connection with the loan modification services offered and undertaken on behalf of clients, as required by Section 2970 of the Regulations and Section 10085 of the Code;

(e) On or after October 11, 2009, collected a total of \$3,500.00 in advance fees from Manuel Rodriguez, Jr., to perform loan modification services, in violation of Section 10085.6 of the Code;

(f) Failed to provide an accounting to trust fund owner-beneficiaries from whom advance fees had previously been collected as required by Section 2972 of the Regulations and Section 10146 of the Code;

(g) Failed to provide accurate mortgage disclosure statements to the borrowers listed below in violation of sections 10240 and 10241 of the Code:

Borrower	Address	Per GFE Pd to Respondents	Per GFE Pd to Others	Paid By Escrow Company	Check Number
Zapeda	4668 E. Turner Ave. Fresno, CA	\$3,102.00 (YSP)	\$4,090.50	\$5,392.50	606266
Flores- Bravo	14016 Hume Ave. Aroma, CA	\$1,550.00 (YSP)	\$5,345.99	\$6,876.99	621199
Perez	2211 W. Pico Fresno, CA	\$150.00 (YSP)	\$4,641.72	\$4,791.72	645735
Gazsilazo	316 11 th St. Orange Cove, CA	\$1,375.00 (YSP)	\$3,025.00	\$4,400.00	674272

11

The acts and/or omissions of RESPONDENTS as alleged above violated Sections 2832 (Trust Fund Handling); 2970 (Advance Fee Materials); and 2972 (Accounting-Advance Fees) of the Regulations and Sections 10085 (Advance Fee Materials); 10085.5 (Advance Fees

1 Without No Objection Letter); 10085.6 (Advance Fees for Loan Modification); 10146 (Deposit
2 Advance Fees); 10240 (Written Disclosure Statement); and 10241 (Written Disclosure Statement
3 Contents) of the Code; and are grounds for discipline of RESPONDENTS pursuant to Sections
4 10177(d) (Willful Disregard/Violation of Real Estate Law) and 10177(g)
5 (Negligence/Incompetence of Real Estate Licensee) of the Code.

6 SECOND CAUSE OF ACTION

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8 Complainant refers to Paragraphs 1 through 11, above, and incorporates the same
9 herein, by reference.

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11 On or about March 24, 2010, Griselda A. (Griselda) met with CANALES for the
12 purpose of hiring him and RESPONDENTS to obtain a modification of the loan secured by her
13 residence commonly known as 7460 Monterey Street, Gilroy, California.

14 14

15 At this meeting CANALES asked for and Griselda paid him \$5,000.00 as an
16 advance fee to obtain a loan modification.

17 15

18 On or about August 4, 2010, Bank of America approved CANALES as a
19 representative of Griselda to negotiate a loan modification.

20 16

21 On or about September 8, 2010, Griselda advised CANALES that she wished to
22 negotiate the loan modification on her own and asked for a refund. CANALES refunded the
23 \$5,000.00 advance fee to Griselda.

24 17

25 The acts and or omissions referred to in Paragraphs 11 through 16, above,
26 constitute violations of Section 10085.6 (Advance Fees for Loan Modification) of the Code and
27

1 are grounds for the suspension or revocation of RESPONDENTS' licenses pursuant to Sections
2 10177(d) and 10177(g) of the Code.

3 THIRD CAUSE OF ACTION

4 Failure to Supervise

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6 Complainant refers to Paragraphs 1 through 17, and incorporates the same herein
7 by reference.

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9 At all times relevant herein ROMERO was required to exercise reasonable
10 supervision and control over the activities her, agents, real estate licensees and employees.
11 ROMERO failed to exercise reasonable supervision in such a manner as to allow the acts and
12 omissions as described above to occur; all in violation of Section 10159.2 of the Code and which
13 constitutes cause for suspension or revocation of all licenses and license rights of ROMERO
14 under Sections 10177(d) and 10177(h) of the Code.

15 COST RECOVERY

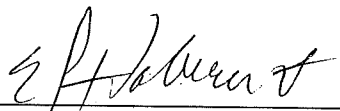
16 Section 10106 of the Code provides, in pertinent part, that in any order issued in
17 resolution of a disciplinary proceeding before the department, the commissioner may request the
18 administrative law judge to direct a licensee found to have committed a violation of this part to
19 pay a sum not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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and
3 license rights of Respondent(s) under the Real Estate Law (Part 1 of Division 4 of the Business
4 and Professions Code), for the cost of investigation and enforcement as permitted by law, and for
5 such other and further relief as may be proper under other provisions of law.

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8 E. J. HABERER II,
9 Deputy Real Estate Commissioner

10 Dated at Oakland, California

11 this 17 day of May, 2012.
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