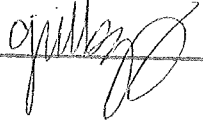


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FILED

SEP 16 2015

BUREAU OF REAL ESTATE

By 

5
6
7 BEFORE THE BUREAU OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) CalBRE No. H-04745 SD
11)
12 ALLISON JAMES OF CALIFORNIA, INC.;) ACCUSATION
13 KENNETH L. MOON, individually and as)
designated officer of Allison James of)
14 California, Inc.;)
ARTURO SOLER ORTIZ DE ZARATE, aka)
15 Arturo Soler;)
PAULA M. NARANJO, and)
APRIL A. ALVA,)
16 Respondents.)

17
18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of
19 California, for cause of Accusation against ALLISON JAMES OF CALIFORNIA, INC.;;
20 KENNETH L. MOON, individually, and as designated officer of Allison James of California,
21 Inc.; ARTURO SOLER ORTIZ DE ZARATE, aka Arturo Soler; PAULA M. NARANJO; and
22 APRIL A. ALVA (collectively "Respondents"), is informed and alleges as follows:
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1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

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

3.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4.

From July 14, 2010, through the present, Respondent ALLISON JAMES OF CALIFORNIA, INC. ("AJCI") has been licensed and/or has license rights by the Bureau of Real Estate¹ ("Bureau") as a corporate real estate broker, License ID 01885684.

5.

From April 16, 2007, through the present, Respondent KENNETH L. MOON ("MOON") has been licensed by the Bureau as a real estate broker, License ID 01428330.

6.

At all times herein mentioned, Respondent AJCI was licensed as a real estate corporation, acting by and through Respondent MOON as its designated broker-officer. As the broker-officer designated by Respondent AJCI pursuant to Section 10211 of the Code, MOON was responsible for the supervision and control of the activities conducted on behalf of Respondent AJCI, by its

¹ Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate ("Bureau"). All references to the agency are to the successor Bureau.

1 officers and employees, as necessary to secure full compliance with Real Estate Law as set forth
2 in Code Section 10159.2 and Regulation 2725.

3 7.

4 From August 2, 2007, through the present, Respondent ARTURO SOLER ORTIZ DE
5 ZARATE, aka Arturo Soler (“SOLER”) has been licensed by the Bureau as a real estate
6 salesperson, License ID 01764718. At all times relevant herein, SOLER was licensed under the
7 employment of AJCI.

8 8.

9 From October 1, 2005, through the present, Respondent PAULA M. NARANJO
10 (“NARANJO”) has been licensed by the Bureau as a real estate salesperson, License ID
11 01710451.

12 9.

13 From January 13, 2003, through the present, Respondent APRIL A. ALVA (“ALVA”)
14 has been licensed by the Bureau as a real estate salesperson, License ID 01365287. At all times
15 relevant herein, ALVA was licensed under the employment of AJCI.

16 10.

17 At all times relevant herein, Arturo Realty Corp., Joseph Arellano, Edgar Gilbert, and
18 April Alva & Associates, were not licensed by the Bureau in any capacity.

19 FIRST CAUSE OF ACCUSATION- Charmont Property

20 (SOLER, NARANJO, AJCI, and MOON)

21 11.

22 On or about April 2, 2012, Respondent SOLER executed an exclusive residential listing
23 agreement for the short sale of a residential property located at 7425 Charmant Drive #2805, San
24

1 Diego, California (“Charmant property”). The Charmant property was being sold by F.V.², as
2 Trustee of the A.F.V. Trust dated July 14, 2004. The listing period was April 2, 2012 through
3 December 31, 2012. The Charmant property was to be sold in “as is” condition. The listing
4 price was to be \$139,000. Respondent AJCI was to receive seven (7) percent of the sale price as
5 commission for the sale of the Charmant property. AJCI is listed as the listing broker on the
6 exclusive residential listing agreement.

7 12.

8 On November 6, 2012, Respondent SOLER presented seller F.V. with an offer to
9 purchase the Charmant property for a purchase price of \$135,000 from buyer, Maria Lopez.
10 Respondent acted as a dual agent for seller, F.V. and for buyer, Maria Lopez. AJCI was listed as
11 both the listing and selling broker. On November 9, 2012, Respondent SOLER prepared a
12 counter offer no. 1 on behalf of the seller for an all cash purchase price of \$150,000 to close in
13 10 days. Counter offer no. 1 was accepted by buyer, Maria Lopez.

14 13.

15 In or around December, 2012, Respondent NARANJO, while acting as a short sale
16 negotiator, negotiated the short sale of the Charmont property with the seller’s lender, J.P.
17 Morgan Chase bank, on behalf of the seller of the Charmont property. On December 21, 2012,
18 Chase bank sent a letter to NARANJO advising her that Chase would agree to the short sale of
19 the Charmont property to Maria Lopez for the sale price of \$150,000. NARANJO was to return
20 a signed Arm’s Length Affidavit, among other conditions, prior to the close of escrow.

21 ///

22 _____
23 ² Initials are used in place of individuals’ full names to protect their privacy. Documents containing individuals’
24 full names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after
service of a timely and proper request for discovery on Complainant’s counsel.

14.

On or about January 15, 2013, Respondent SOLER, Maria Lopez, and F.V. signed an affidavit of “arm’s length transaction” form for Chase bank which declared under penalty of perjury that the statements within the form were true and correct. The statements included the following: 1) that the purchase and sale transaction of the Charmont property had been negotiated by unrelated parties; 2) that there were no hidden terms or agreements between the buyer and seller or their respective agents that are not reflected in the agreement or the escrow instructions associated with the transaction; and 3) that all amounts to be paid to any party in connection with the short sale have been disclosed to and approved by the lender and/or servicer for approval prior to close of escrow.

15.

Respondent SOLER and Maria Lopez failed to disclose to F.V. or to Chase bank that Maria Lopez was married to SOLER and that SOLER deposited personal funds for the purchase of the Charmont property. SOLER deposited \$28,000 in escrow through SOLER’s company, Arturo Realty Corp., for the benefit of Maria Lopez and her purchase of the subject property. An undisclosed third party deposited \$49,980 in escrow for the benefit of Maria Lopez. Another undisclosed third party deposited \$75,000 in escrow for the benefit of Maria Lopez. The buyer’s escrow information form for Maria Lopez listed her as choosing to take title to the Charmont property as “a single woman (never married).” A grant deed was prepared transferring title from F.V. to Maria Lopez, a single woman. On or about January 26, 2013, Respondent SOLER instructed the escrow officer to wire AJCI’s \$9,000 commission to Arturo Realty Corp. The commission disbursement instructions form had an approval bearing the electronic signature of Matthew Crumbaugh, chief executive officer for AJCI.

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Escrow closed on or about January 29, 2013. NARANJO's short sale negotiator fee was paid outside of escrow and was not listed on the final HUD-1 settlement statement. The HUD-1 final settlement statement listed a \$9,000 commission to be paid to AJCI. On January 29, 2013, the escrow company wired \$9,000 to SOLER's bank account in the name of Arturo Realty Corp. at Comerica Bank.

17.

On January 25, 2013, Respondent SOLER listed the Charmant property for sale on the multiple listing service for a listing price of \$199,900. Showings of the Charmant property were to start on February 8, 2013. On January 30, 2013, R.M. as agent for buyers A.K. and P.K., submitted an offer to purchase the Charmant property for \$215,000. Seller, Maria Lopez, accepted A.K. and P.K.'s offer. Respondent SOLER represented the seller, Maria Lopez. Escrow closed on February 21, 2013. The escrow company disbursed the following amounts from the sale proceeds: \$75,000 to Ricardo Lopez, \$50,000 to Amelia Moreno Ackerman, and \$28,000 to Arturo Realty Corp. On or about February 12, 2013, Respondent SOLER submitted a Disbursement Authorization Form and Commission Disbursement Instructions which directed the escrow company to pay the \$8,600 commission due to AJCI to Arturo Realty Corp. The commission disbursement approval had the electronic signature of Matthew Crumbaugh, chief executive officer for AJCI. F.V. sued SOLER, Maria Lopez, and AJCI for damages related to the short sale of the Charmant property. The parties settled through a confidential agreement of settlement and release.

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18.

The conduct, acts and/or omissions of Respondent SOLER and AJCI as set forth above in Paragraphs 11 through 17, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondents SOLER and AJCI pursuant to Code sections 10176(a) (substantial misrepresentation); 10176(g) (secret or undisclosed compensation), 10176(i) (fraud or dishonest dealing), and/or 10177(d) (violation of the Real Estate Law) for violation of Code sections 10130 and 10137.

19.

The conduct, acts and/or omissions of Respondents SOLER and NARANJO of offering or engaging in services that require a real estate broker license pursuant to Code section 10131, subdivisions (a) or (d), constitutes cause for the suspension or revocation of all licenses and license rights of Respondents SOLER and NARANJO pursuant to Code sections 10177(d) (violation of the Real Estate Law) and/or 10177(g) (negligence) for violation of Code Sections 10130 and 10137.

20.

The conduct, acts and/or omissions of Respondent MOON, in allowing SOLER and AJCI to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent MOON to exercise the supervision and control over the activities of Respondents SOLER and AJCI as required by Code Section 10159.2 and Regulation 2725, and constitutes cause to suspend or revoke the real estate license and license rights of Respondent MOON under Code Sections 10177(h) (failure to supervise), 10177(d), and/or 10177(g).

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1 SECOND CAUSE OF ACCUSATION-View Point property

2 (ALVA, AJCI, and MOON)

3 21.

4 There is hereby incorporated in this Second, separate and distinct Cause of Accusation,
5 all of the allegations contained in Paragraphs 1 through 20, with the same force and effect as if
6 herein fully set forth.

7 22.

8 The Bureau received a complaint from J.S., a licensed broker who was authorized to
9 manage a rental property located at 6225 View Point Drive, San Diego, California (“View Point
10 property”). On or about November 10, 2014, Joseph Arellano, an unlicensed person acting on
11 behalf of April Alva & Associates, solicited or offered to solicit prospective tenants for the View
12 Point property. Joseph Arellano visited the View Point property and attempted to show the View
13 Point property to prospective tenants without the authorization of J.S. or the owner of the View
14 Point property.

15 23.

16 On January 15, 2015, a special investigator for the Bureau visited the AJCI branch office
17 located at 555 Broadway, Suite 122, Chula Vista, California. He obtained business cards for
18 Joseph Arellano and Edgar Gilbert, both unlicensed, who listed their titles as “sales
19 representatives” for April Alva & Associates. The business cards offered to assist others with
20 their real estate needs including buying, selling, short sale, and foreclosure services. The
21 business cards did not list any Bureau license ID number for AJCI, ALVA, April Alva &
22 Associates, Joseph Arellano, or Edgar Gilbert. The special investigator also obtained a brochure
23 for AJCI and April Alva & Associates with ALVA’s photograph on the cover. The brochure
24

1 offered short sales services to homeowners who are behind on their mortgage payments, unable
2 to obtain a loan modification, or facing foreclosure. The brochure did not list any Bureau license
3 ID number for AJCI, ALVA, or April Alva & Associates.

4 24.

5 In response to a letter of inquiry from the Bureau's special investigator, ALVA noted that
6 Edgar Gilbert and Joseph Arellano are employees of ALVA's corporation, AAA & Associates
7 doing business as April Alva & Associates. ALVA claimed that Joseph Arellano's title with
8 April Alva & Associates is ALVA's personal assistant and Edgar Gilbert's title is marketing
9 director. ALVA denied that their duties included showing properties or identifying themselves
10 as real estate agents.

11 25.

12 The conduct, acts and/or omissions of Respondent ALVA and AJCI as set forth above in
13 Paragraphs 22 through 24, constitute cause for the suspension or revocation of all licenses and
14 license rights of Respondents ALVA and AJCI pursuant to Code Sections Code sections
15 10177(d) (violation of the Real Estate Law) and/or 10177(g) (negligence) for violation of Code
16 sections 10137, 10140.6, 10159.6, and Regulation 2773.

17 26.

18 The conduct, acts and/or omissions of Respondent MOON, in allowing ALVA and AJCI
19 to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent MOON to
20 exercise the supervision and control over the activities of Respondents ALVA and AJCI as
21 required by Code Section 10159.2 and Regulation 2725, and constitutes cause to suspend or
22 revoke the real estate license and license rights of Respondent MOON under Code Sections
23 10177(h) (failure to supervise); 10177(d), and/or 10177(g).

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, 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 the investigation and enforcement of the case.

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 all licenses and/or license rights of Respondents ALLISON JAMES OF CALIFORNIA, INC.; KENNETH L. MOON, individually, and as designated officer of Allison James of California, Inc.; ARTURO SOLER ORTIZ DE ZARATE, aka Arturo Soler; PAULA M. NARANJO; and APRIL A. ALVA under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at San Diego, California this 8th day of September, 2015.


VERONICA KILPATRICK
Deputy Real Estate Commissioner

cc: Allison James Of California, Inc.
Kenneth L. Moon
Arturo Soler Ortiz De Zarate
Raul Hector Barcena-Salas
Paula M. Naranjo
Synergy Funding, Inc.
April A. Alva
Veronica Kilpatrick
Sacto