

FILED

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BUREAU OF REAL ESTATE

By 

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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) OAH No. 2015110117
12 ALLISON JAMES OF CALIFORNIA, INC.;)
KENNETH L. MOON, individually and as) FIRST AMENDED
13 designated officer of Allison James of) ACCUSATION
California, Inc.; and)
14 PAULA M. NARANJO,)
Respondents.)
15)

16 This First Amended Accusation amends the Accusation filed on September 16, 2015.
17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of
18 California, for cause of Accusation against ALLISON JAMES OF CALIFORNIA, INC.;
19 KENNETH L. MOON, individually, and as designated officer of Allison James of California,
20 Inc.; and PAULA M. NARANJO (collectively "Respondents"), is informed and alleges as
21 follows:
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23
24

Flag

1 1.

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

4 2.

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

8 3.

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

11 4.

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

15 5.

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

18 6.

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

23
24 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 September 16, 2016, Arturo Soler Ortiz de Zarate, aka
5 Arturo Soler ("Soler") was licensed by the Bureau as a real estate salesperson, License ID
6 01764718. At all times relevant herein, Soler was licensed under the employment of AJCI. On
7 or about September 16, 2016, Soler voluntarily surrendered his real estate salesperson license.

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 At all times relevant herein, Arturo Realty Corp. was not licensed by the Bureau in any
14 capacity.

15 CAUSE OF ACCUSATION - Charmont Property

16 (NARANJO, AJCI, and MOON)

17 10.

18 On or about April 2, 2012, Soler executed an exclusive residential listing agreement for
19 the short sale of a residential property located at 7425 Charmant Drive #2805, San Diego,
20 California ("Charmant property"). The Charmant property was being sold by F.V.², as Trustee
21 of the A.F.V. Trust dated July 14, 2004. The listing period was April 2, 2012 through December
22 31, 2012. The Charmant property was to be sold in "as is" condition. The listing price was to be

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.

1 \$139,000. Respondent AJCI was to receive seven (7) percent of the sale price as commission for
2 the sale of the Charmant property. AJCI is listed as the listing broker on the exclusive residential
3 listing agreement.

4 11.

5 On November 6, 2012, Soler presented seller F.V. with an offer to purchase the Charmant
6 property for a purchase price of \$135,000 from buyer, Maria Lopez. Soler acted as a dual agent
7 for seller, F.V. and for buyer, Maria Lopez. AJCI was listed as both the listing and selling
8 broker.

9 12.

10 The address listed for AJCI on the listing agreement, residential purchase agreement, and
11 other related forms for the Charmant property transaction is: 2506 Catamaran Way, Chula Vista,
12 California 91914. Said address is not listed with the Bureau as a mailing, main office, or branch
13 office address for AJCI.

14 13.

15 On November 9, 2012, Soler prepared a counter offer no. 1 on behalf of the seller for an
16 all cash purchase price of \$150,000 to close in 10 days. Counter offer no. 1 was accepted by
17 buyer, Maria Lopez. Escrow was opened for the sale and purchase of the Charmant property.

18 14.

19 In or around December, 2012, Respondent NARANJO, while acting as a short sale
20 negotiator, negotiated the short sale of the Charmont property with the seller's lender, J.P.
21 Morgan Chase bank, on behalf of the seller of the Charmont property. On November 6, 2012,
22 Respondent NARANJO sent an email from the address: paula.realestate@gmail.com to the
23 escrow officer for a HUD-1 settlement statement to provide to the lender. On December 21,
24

1 2012, Chase bank sent a letter to NARANJO advising her that Chase would agree to the short
2 sale of the Charmont property to Maria Lopez for the sale price of \$150,000. Respondent
3 NARANJO was to return a signed Arm's Length Affidavit, among other conditions, prior to the
4 close of escrow.

5 15.

6 From October 1, 2012 through January 1, 2013, Respondent NARANJO was licensed
7 under the employment of broker, Vince Scuncio. According to Vince Scuncio, he was not aware
8 of, nor did he permit Respondent NARANJO to solicit, originate, or negotiate any short sale
9 transactions during her licensure under his employment.

10 16.

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

20 17.

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

10 18.

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

16 19.

17 On January 25, 2013, Soler listed the Charmant property for sale on the Multiple Listing
18 Service for a listing price of \$199,900. Showings of the Charmant property were to start on
19 February 8, 2013. On January 30, 2013, R.M. as agent for buyers A.K. and P.K., submitted an
20 offer to purchase the Charmant property for \$215,000. Seller, Maria Lopez, accepted A.K. and
21 P.K.'s offer. Soler represented the seller, Maria Lopez. Escrow closed on February 21, 2013.
22 The escrow company disbursed the following amounts from the sale proceeds: \$75,000 to
23 Ricardo Lopez, \$50,000 to Amelia Moreno Ackerman, and \$28,000 to Arturo Realty Corp. On
24

1 or about February 12, 2013, Soler submitted a Disbursement Authorization Form and
2 Commission Disbursement Instructions which directed the escrow company to pay the \$8,600
3 commission due to AJCI to Arturo Realty Corp. The commission disbursement approval had the
4 electronic signature of Matthew Crumbaugh, chief executive officer for AJCI. F.V. sued Soler,
5 Maria Lopez, and AJCI for damages related to the short sale of the Charmant property. The
6 parties settled through a confidential agreement of settlement and release.

7 20.

8 The address listed for AJCI on the transaction forms for the sale of the Charmant
9 property by Maria Lopez is: 2506 Catamaran Way, Chula Vista, California 91914. Said address
10 is not listed with the Bureau as a mailing, main office, or branch office address for AJCI. The
11 Realtor Associate Independent Contractor Agreement executed between AJCI [Broker] and Soler
12 [Associate] lists Soler's address as 2506 Catamaran Way, Chula Vista, California 91914 and
13 provides in Item 2d, as follows: "Supervision. Associate will perform all activities with respect
14 to his or her real estate brokerage business independently without Broker's supervision or
15 control. Associate will be deemed to be working under Broker's supervision only to the extent
16 required by laws and regulations applicable to the real estate brokerage business in the state of
17 California."

18 21.

19 The conduct, acts and/or omissions of Respondent NARANJO of offering or engaging in
20 services, for compensation, that require a real estate broker license pursuant to Code section
21 10131, subdivisions (a) or (d), are in violation of Code sections 10130 and 10137 and constitute
22 cause for the suspension or revocation of all licenses and license rights of Respondent
23 NARANJO pursuant to Code sections 10177(d) (violation of the Real Estate Law) and/or
24

1 10177(g) (negligence).

2 22.

3 The conduct, acts and/or omissions of Respondent AJCI as set forth above in Paragraphs
4 10 through 20, constitute cause for the suspension or revocation of all real estate licenses and
5 license rights of Respondent AJCI pursuant to Code sections 10165 and 10177(d) (for violation
6 of Code sections 10163 and Regulation 2715), and/or 10177(g).

7 23.

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

14 24.

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

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