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FILED

APR 26 2016

BUREAU OF REAL ESTATE

By B. Nicholas

9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 SEQUOIA PACIFIC LENDING, INC.,)
14 DAVID LEE SIMAS, and CRUZ)
15 MORALES,)

16 Respondents.)

No. H-6391 SAC

ACCUSATION

17 The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against SEQUOIA PACIFIC LENDING INC.,
19 DAVID LEE SIMAS, and CRUZ MORALES (Respondents), is informed and alleges as follows:

20 PRELIMINARY ALLEGATIONS

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22 The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
23 State of California, makes this Accusation in her official capacity.

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

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2 At all times mentioned, Respondent SEQUOIA PACIFIC LENDING, INC.
3 (SEQUOIA) was and is licensed by the State of California, Bureau of Real Estate (Bureau)
4 as a real estate broker corporation. At all times mentioned, SEQUOIA had a mortgage loan
5 originator license endorsement issued by the Bureau authorizing SEQUOIA to act as a mortgage
6 loan originator.

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8 At all times mentioned, Respondent DAVID LEE SIMAS (SIMAS) was and is
9 licensed by the Bureau individually as a real estate broker, and as the designated broker-officer of
10 SEQUOIA. As said designated broker-officer, SIMAS was responsible pursuant to Section
11 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
12 licensees and employees of SEQUOIA for which a license is required. At all times mentioned,
13 SIMAS had a mortgage loan originator license endorsement issued by the Bureau authorizing
14 him to act as a mortgage loan originator.

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16 At all times mentioned, Respondent CRUZ MORALES (MORALES) was and is
17 licensed by the Bureau as a real estate salesperson. At all times mentioned, MORALES worked
18 under the employ of real estate broker corporation SEQUOIA. At no time did MORALES have
19 a mortgage loan originator license endorsement issued by the Bureau authorizing her to act as a
20 mortgage loan originator.

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22 Whenever reference is made in an allegation in this Accusation to an act or
23 omission of SEQUOIA, such allegation shall be deemed to mean that the officers, directors,
24 employees, agents and real estate licensees employed by or associated with SEQUOIA
25 committed such acts or omissions while engaged in furtherance of the business or operation of
26 SEQUOIA and while acting within the course and scope of their corporate authority and
27 employment.

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate licensee, in the State of California, within the meaning of:

a. Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property;

b. Section 10131.2 of the Code, including the claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon; and

c. Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondents on behalf of others for compensation or in expectation of a compensation.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 7, inclusive, above are incorporated by this reference as if fully set forth herein.

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In connection with the operation and conduct of the real estate activities described in Paragraph 7(a) and (b), Respondents engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code including but not limited to the following:

<u>BUYER</u>	<u>DATE</u>	<u>ADVANCE FEE</u>
Perez/Diaz	7/14/15	\$100.00
Tiss	6/23/15	\$100.00
Brown	7/10/15	\$100.00
Ballesteros	3/6/15	\$100.00

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In connection with the operation and conduct of the activities and transactions described in Paragraph 9, and within three years prior to the filing of this Accusation, Respondents:

(a) claimed, demanded, charged, received, collected, and/or contracted for advance fees in connection with real estate services and failed to submit the advance fee agreements and all materials used in obtaining the advance fee agreements to the Bureau prior to use, without first obtaining a "No Objection Letter" as required by Sections 10085 (failure to submit materials used in collection of advance fees to Bureau) and 10085.5 (payment of advance fee) of the Code, and Section 2970 (materials used in collection of advance fees must be approved by Bureau prior to use) of Title 10 of the California Code of Regulations (Regulations);

(b) collected advance fees, trust funds, from principals for real estate services, and deposited those funds into Respondents' general business bank account instead of immediately depositing said funds into a designated trust account or neutral escrow depository, in violation of Sections 10145 (trust fund handling) and 10146 (handling of advance fees as trust funds) of the Code, and Section 2832 (trust account designation) of the Regulations.

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2 The acts and/or omissions of Respondents as alleged in the First Cause of Action
3 constitute grounds for the suspension or revocation of all licenses and license rights of
4 Respondents, pursuant to the following provisions of the Code and Regulations:

5 As to Paragraph 10(a), under Sections 10177(d) (willful disregard or violation of
6 Real Estate Law) and/or 10177(g) (negligence or incompetence in performing licensed act) of
7 the Code, in conjunction with Sections 10085 and 10085.5 of the Code and Section 2970 of the
8 Regulations;

9 As to Paragraph 10(b), under Sections 10177(d) and/or 10177(g) of the Code, in
10 conjunction with Sections 10145 and 10146 of the Code and 2832 of the Regulations.

11 SECOND CAUSE OF ACTION

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13 Each and every allegation in Paragraphs 1 through 11, inclusive, above, are
14 incorporated by this reference as if fully set forth herein.

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16 While acting as a real estate broker as described in Paragraph 7(c), SEQUOIA and
17 SIMAS failed to file a Mortgage Loan Business Activity Report for fiscal year 2014, in violation
18 of Section 10166.07(a) (mortgage loan business activity reports) of the Code.

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20 The acts and/or omissions of SEQUOIA and SIMAS as alleged in the Second
21 Cause of Action constitute grounds for the suspension or revocation of all licenses and license
22 rights of respondents SEQUOIA and SIMAS under Sections 10177(d) and/or 10177(g) of the
23 Code in conjunction with Section 10166.07 of the Code.

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25 The acts and/or omissions of SEQUOIA and SIMAS as alleged in the Second
26 Cause of Action constitute grounds for the suspension or revocation of all mortgage loan

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1 originator license endorsements of respondents SEQUOIA and SIMAS under Section 10166.07
2 of the Code in conjunction with Section 10166.051 of the Code.

3 THIRD CAUSE OF ACTION

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5 Each and every allegation in Paragraphs 1 through 15, inclusive, above, are
6 incorporated by this reference as if fully set forth herein.

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8 Respondent SIMAS failed to exercise reasonable supervision over the acts of
9 SEQUOIA in such a manner as to allow the acts and events described above to occur.

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11 The acts and/or omissions of SIMAS described in Paragraph 17 constitute failure
12 on the part of SIMAS, as designated broker-officer for SEQUOIA, to exercise reasonable
13 supervision and control over the licensed activities of SEQUOIA required by Section 10159.2 of
14 the Code and Section 2725 (broker supervision) of the Regulations.

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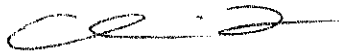
16 The facts described above as to the Third Cause of Action constitutes cause for
17 the suspension or revocation of the licenses and license rights of Respondent SIMAS under
18 Section 10177(g) (negligence or incompetence in performing licensed act) of the Code, Section
19 10177(h) (failure to supervise) of the Code, and/or Section 10177(d) (willful disregard or
20 violation of Real Estate Law) of the Code in conjunction with Section 10159.2 (responsibility of
21 corporate officer in charge) of the Code and Section 2725 (broker supervisor) of the Regulations.

22 COST RECOVERY

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24 Section 10106 of the Code provides, in pertinent part, that in any order issued in
25 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
26 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
27 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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10 CHIKA SUNQUIST
11 Supervising Special Investigator

12 Dated at Sacramento, California,
13 this 26th day of April, 2016

14 DISCOVERY DEMAND

15 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau of Real
16 Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
17 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau of Real Estate may
18 result in the exclusion of witnesses and documents at the hearing or other sanctions that the
19 Office of Administrative Hearings deems appropriate.
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