

FILED

October 7, 2011

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DEPARTMENT OF REAL ESTATE

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8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 TIEN CONG NGUYEN,)

14 Respondent.)

No. H-11224 SF

ACCUSATION

15
16 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against TIEN CONG NGUYEN, (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the
22 State of California, makes this Accusation in his official capacity.

23 2

24 Respondent is presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

26 3

27 At all times mentioned, Respondent was and is licensed by the Department

1 individually as a real estate broker.

2 4

3 At all times mentioned, Respondent engaged in the business of, acted in the
4 capacity of, advertised, or assumed to act as a real estate broker in the State of California, within
5 the meaning of Section 10131(b) of the Code in the operation and conduct of a property
6 management business with the public wherein, on behalf of others, for compensation or in
7 expectation of compensation, Respondent leased or rented and offered to lease or rent, and
8 placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of
9 real property or improvements thereon, and collected rents from real property or improvements
10 thereon.

11 FIRST CAUSE OF ACTION

12 5

13 Each and every allegation in Paragraphs 1 through 4, inclusive, above, are
14 incorporated by this reference as if fully set forth herein.

15 6

16 While acting as a real estate broker as described in Paragraph 4, Respondent
17 accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners and
18 tenants in connection with the leasing, renting, and collection of rents on real property or
19 improvements thereon, as alleged herein, and thereafter from time to time made disbursements of
20 said trust funds.

21 7

22 In the course of the activities described in Paragraph 4, Respondent:

23 (a) Failed to deposit trust funds into one or more trust fund accounts in the
24 name of Respondent as trustee at a bank or other financial institution, in conformance with
25 Section 10145 of the Code and Section 2832 of the Regulations;

26 (b) Operated his real estate business, under the fictitious business name of
27 "Global Property Management," without obtaining a license bearing said fictitious business

1 name in violation of Section 2731 of the Regulations.

2 (c) Failed to notify the Department within the next business day that
3 Respondent had closed his main office located at 5322 Arezzo Way, San Jose, California, as
4 required by Section 2715 of the Regulations.

5 8

6 The facts alleged in the First Cause of Action are grounds for the suspension or
7 revocation of Respondent's licenses and license rights under the following sections of the Code
8 and Regulations:

9 (1) As to Paragraph 7(a) under Section 10177(d) of the Code in conjunction
10 with Section 10145 of the Code and Section 2832 of the Regulations;

11 (2) As to Paragraph 7(b), under Section 10177(d) of the Code in conjunction
12 with Section 10159.5 of the Code and Section 2731 of the Regulations; and

13 (3) As to Paragraph 7(c), under Section 10177(d) of the Code in conjunction
14 with Section 10162 of the Code and Section 2715 of the Regulations.

15 SECOND CAUSE OF ACTION

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17 Each and every allegation in Paragraphs 1 through 8, inclusive, above, are
18 incorporated by this reference as if fully set forth herein.

19 10

20 On or about December 9, 2008, Respondent, using the fictitious business name
21 Global Property Management, entered into a Property Management Agreement with Walter W.
22 (hereinafter "Walter") to manage Walter's property located at 7045 Via Barranca, San Jose,
23 California. In compensation for Respondent's property management services, Respondent was
24 to receive a management fee of 10 percent of the gross monthly rent collected, and 50 percent of
25 the first month's rent.

26 11

27 On or about December 15, 2008, Respondent entered into a Residential Lease or

1 Month-to-Month Rental Agreement with tenant Howard and Elizabeth W. (hereinafter
2 "tenants") to lease 7045 Via Barranca, San Jose, California.


3 12

4 Respondent falsely represented to Walter the tenants were paying \$2,300 per
5 month in rent. In truth and fact, the tenants were paying \$2,500 per month in rent.

6 13

7 Respondent's conduct described above constitutes the making of substantial
8 misrepresentations, fraud or dishonest dealing, the taking of a secret profit, and/or negligence or
9 incompetence in performing acts requiring a real estate license and is cause under Sections
10 10176(a), 10176(i), 10176(g), 10177(g), and/or 10177(j) of the Code for suspension or
11 revocation of all licenses and license rights of Respondent.

12 WHEREFORE, Complainant prays that a hearing be conducted on the
13 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
14 disciplinary action against all licenses and license rights of Respondent under the Real Estate
15 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
16 relief as may be proper under other provisions of law.

17
18 
19 E. J. Haberer II
20 Deputy Real Estate Commissioner

21 Dated at Oakland, California,
22 this 30 day of September, 2011

23 DISCOVERY DEMAND

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