

*Handwritten signature*

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Department of Real Estate  
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**FILED**

APR - 4 2012

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of )  
)  
GABLE REAL ESTATE INC., doing business as )  
R R Gable Real Estate Inc., California Homes, )  
Gable Commercial, Gable Mortgage, and )  
California Short Sale Pros; and )  
)  
ROGER DALE HANCE, individually and )  
as designated officer of Gable Real Estate Inc., )  
)  
)  
Respondents. )  
)  
)

No. H-37899 LA  
FIRST AMENDED ACCUSATION

The Accusation filed on February 21, 2012, is amended in its entirety as follows:

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against GABLE REAL ESTATE INC. ("GREI"), doing business as R R Gable Real Estate Inc., California Homes, Gable Commercial, Gable Mortgage and California Short Sale Pros, and ROGER DALE HANCE ("HANCE"), individually and as designated officer of Gable Real Estate Inc. (collectively "Respondents"), is informed and alleges as follows:

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1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

From July 18, 1996, through the present, Respondent GREI has been licensed as a restricted real estate corporation. At all times relevant herein, GREI was acting by and through Respondent HANCE as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. GREI was licensed by and through HANCE from August 18, 2008 to date. On February 9, 1996, in Case No. H-26473 LA, pursuant to the Decision effective July 18, 1996, GREI's corporate broker license was denied with right to petition for a restricted corporate broker license, as more fully set forth in Paragraph 15, below.

3.

From March 15, 1978, through the present, Respondent HANCE has been licensed as a real estate broker.

4.

GREI is owned by Kreg Gable, a restricted real estate broker and president.

5.

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

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1 FIRST CAUSE OF ACCUSATION

2 (Audit of Real Estate, Mortgage Loan Broker and Broker-Controlled Escrow)

3 6.

4 At all times mentioned, in the State of California, County of Los Angeles, Simi  
5 Valley, Respondent GREI acted as a corporate real estate broker and conducted licensed activities  
6 within the meaning of:

7 A. Code Section 10131(a). Respondents engaged in the business of a residential  
8 resale brokerage whom acted in the capacity of, advertised or assumed to act as a real estate  
9 broker, including the solicitation for listings of and the negotiation of the sale of real property as  
10 the agent of others;

11 B. Code Section 10131(b), including the operation and conduct of a property  
12 management brokerage with the public wherein, for or in expectation of compensation, for  
13 another or others, Respondents leased or rented or offered to lease or rent, or placed for rent, or  
14 solicited listings of places for rent, or solicited for prospective tenants, or collected rents from real  
15 property, or improvements thereon; and

16 C. In addition, GREI conducted broker-controlled escrows through its escrow  
17 division under the exemption set forth in California Financial Code Section 17006(a)(4) for real  
18 estate brokers performing escrows incidental to a real estate transaction where the broker is a  
19 party and where the broker is performing acts for which a real estate license is required.

20 AUDIT

21 7.

22 On October 20, 2010, the Department completed an audit examination of the  
23 books and records of Respondent GREI pertaining to the residential/commercial resale, mortgage  
24 loan brokerage including short sales, and broker escrow activities described in Paragraph 6,  
25 which require a real estate license. The audit examination covered a period of time beginning on  
26 July 1, 2007 to June 30, 2010. The audit examination revealed violations of the Code and the  
Title 10, Chapter 6, California Code of Regulations ("Regulations") set forth in the following

1 paragraphs, and more fully set forth in Audit Report LA090261/LA100031/LA100032 and the  
2 exhibits and work papers attached thereto.

3 TRUST ACCOUNT

4 8.

5 At all times mentioned, in connection with the activities described in Paragraph 6,  
6 above, GREI accepted or received funds including funds in trust ("trust funds") from or on behalf  
7 of actual or prospective parties to transactions including buyers, sellers, lenders and borrowers  
8 and parties to CREI's in-house escrow division handled by GREI and thereafter made deposits  
9 and or disbursements of such funds. From time to time herein mentioned, during the audit  
10 period, said trust funds were deposited and/or maintained by GREI in the bank accounts as  
11 follows:

12  
13 "Gable Real Estate Client Trust Account ("T/A 1")  
14 XXXXXX8563"  
15 JP Morgan Chase Bank  
16 Baton Rouge, Louisiana  
(Property Management Trust Account)

17  
18 "Gable Real Estate dba R R Gable Inc. and dba Gable Mortgage (B/A #2)  
19 XXXXXX8571"  
20 JP Morgan Chase Bank  
21 Baton Rouge, Louisiana  
22 (Broke Escrow Trust Account)

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VIOLATIONS OF THE REAL ESTATE LAW

9.

In the course of activities described in Paragraphs 6 and 8, above, and during the examination period, described in Paragraph 7, Respondents GREI and HANCE, acted in violation of the Code and the Regulations in that Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account, where the disbursement of funds reduced the total of aggregate funds in GREI's escrow trust accounts, to an amount which, on June 30, 2010, was at a minimum \$947.00, less than the existing aggregate trust fund accountability of GREI to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145(a) and Regulations 2832.1, 2950(g) and 2951. The shortage was caused by accrued bank charges.

(b)(1) B/A #2, the escrow trust account, was not in the name of the broker as trustee at a bank or other financial institution, nor designated as a trust account, in violation of Code Section 10145 of the Code and Regulation 2832(a), 2950(d) and 2951; and

(b)(2) Failed to place trust funds, including earnest money deposits for buyers Patrick O, Walter C., and Ashley M, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson, with respect to the escrow trust account, B/A #2, in violation of Code Section 10145 and Regulations 2832(d), 2950(d) and 2951.

(c) (1) Allowed Mary J. Vawter and Doborah F. Smith to be a signatories on the accounts into which trust funds were deposited, when they were not licensed by the Department in any capacity and were not covered by a fidelity bond, in violation of Code Section 10145 and Regulation 2834(a); and

1 (c) (2) HANCE was not a signatory on the accounts into which trust funds were  
2 deposited, in violation of Code Section 10145 and Regulation 2834(b).

3 (d) Failed to disclose the license numbers of GREI and agent(s) for the Uniform  
4 Residential Purchase Agreement for borrowers Juan C. and Julia V, Walter C, and Ashley M, in  
5 violation of Code Section 10140.6, as required by the disclosure in advertising rules.  
6

7 10.

8 The conduct of Respondents GREI and HANCE, described in Paragraph 9, above,  
9 violated the Code and the Regulations as set forth below:

10 PARAGRAPH

10 PROVISIONS VIOLATED

11  
12 9(a)

Code Section 10145 and Regulations 2832.1,  
13 2950(g) and 2951

14  
15 9(b)

Code Section 10145 and Regulation 2832, 2950(d)  
16 and 2951

17  
18 9(c)

Code Section 10145 and Regulation 2834

19  
20 9(d)

Code Section 10140.6

21  
22 The foregoing violations constitute cause for discipline of the real estate licenses and license  
23 rights of Respondents GREI and HANCE under the provisions of Code Sections 10177(d) and/or  
24 10177(g).

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SECOND CAUSE OF ACCUSATION

(Negligence)

11.

The overall conduct of Respondents GREI and HANCE constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

THIRD CAUSE OF ACCUSATION

(Fiduciary Duty)

12.

The conduct, acts and omissions of Respondents GREI and HANCE constitute a breach of fiduciary duty, owed to GREI's clients and trust fund beneficiaries of good faith, trust, confidence and candor; within the scope of their contractual and escrow relationship, in violation of Code Section 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION

(Supervision and Compliance)

13.

The overall conduct of Respondent HANCE constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of GREI and its officers and employees, as required by Code Section 10159.2 and Regulation 2725, and to keep GREI in compliance with the Real Estate Law, with specific regard to trust fund and escrow division handling, and is cause for discipline of the real estate license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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2 PRIOR DEPARTMENT ACTION

3 14.

4 On February 9, 1996, in Case No. H-26473 LA, a Statement of Issues was filed  
5 against respondent GABLE REAL ESTATE INC. that resulted in discipline for said Respondent  
6 for violations of Sections 480, 10152 and 10177 of the California Business and Professions Code  
7 Effective July 18, 1996, GABLE REAL ESTATE INC's corporate broker license was denied  
8 with right to petition for a restricted corporate broker license, issued thereon.

9 COST RECOVERY

10 15.

11 Code Section 10106 provides, in pertinent part, that in any order issued in  
12 resolution of a disciplinary proceeding before the department, the commissioner may request the  
13 administrative law judge to direct a licensee found to have committed a violation of this part to  
14 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.  
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2 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
3 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and/or license rights of Respondents GABLE REAL ESTATE INC.  
5 and ROGER DALE HANCE, individually and as designated officer of Gable Real Estate Inc.  
6 under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code)  
7 and for such other and further relief as may be proper under other applicable provisions of law  
8 including costs of audit (\$8,023.50) and costs of investigation and enforcement in this matter.

9 Dated at Los Angeles, California.

10 This 3 day of April, 2012.

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13 ROBIN TRUJILLO  
14 Deputy Real Estate Commissioner

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22 cc: Gable Real Estate Inc.  
23 Roger Dale Hance  
24 Robin Trujillo  
25 Audits - Godswill Keraoru  
26 Sacto

1 Elliott Mac Lennan, Counsel (SBN 66674)  
2 Department of Real Estate  
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FEB 21 2012

DEPARTMENT OF REAL ESTATE  
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9 STATE OF CALIFORNIA

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15 Gable Commercial, Gable Mortgage, and )  
16 California Short Sale Pros; and )  
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18 ROGER DALE HANCE, individually and )  
19 as designated officer of Gable Real Estate Inc., )  
20 )  
21 Respondents. )

No. H- 37899 LA  
ACCUSATION

19 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State  
20 of California, for cause of Accusation against GABLE REAL ESTATE INC. ("GREI"), doing  
21 business as R R Gable Real Estate Inc., California Homes, Gable Commercial, Gable Mortgage  
22 and California Short Sale Pros, and ROGER DALE HANCE ("HANCE"), individually and as  
23 designated officer of Gable Real Estate Inc. (collectively "Respondents"), is informed and alleges  
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From March 15, 1978, through the present, Respondent HANCE has been licensed as a real estate broker.

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GREI is owned by Kreg Gable, a restricted real estate broker and president.

5.

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

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1 paragraphs, and more fully set forth in Audit Report LA090261/LA100031/LA100032 and the  
2 exhibits and work papers attached thereto.

3 TRUST ACCOUNT

4 8.

5 At all times mentioned, in connection with the activities described in Paragraph 6,  
6 above, GREI accepted or received funds including funds in trust ("trust funds") from or on behalf  
7 of actual or prospective parties to transactions including buyers, sellers, lenders and borrowers  
8 and parties to CREI's in-house escrow division handled by GREI and thereafter made deposits  
9 and or disbursements of such funds. From time to time herein mentioned, during the audit  
10 period, said trust funds were deposited and/or maintained by GREI in the bank accounts as  
11 follows:

12  
13 "Gable Real Estate Client Trust Account ("T/A 1")

14 XXXXXX8563"

15 JP Morgan Chase Bank

16 Baton Rouge, Louisiana

(Property Management Trust Account)

17  
18 "Gable Real Estate dba R R Gable Inc. and dba Gable Mortgage

19 XXXXXX8571"

20 JP Morgan Chase Bank

21 Baton Rouge, Louisiana

(In-House Escrow Trust Account)

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1  
2 VIOLATIONS OF THE REAL ESTATE LAW

3 9.

4 In the course of activities described in Paragraphs 6 and 8, above, and during the  
5 examination period, described in Paragraph 7, Respondents GREI and HANCE, acted in  
6 violation of the Code and the Regulations in that Respondents:

7 (a) Permitted, allowed or caused the disbursement of trust funds from the escrow  
8 trust account, where the disbursement of funds reduced the total of aggregate funds in GREI's  
9 escrow trust accounts, to an amount which, on June 30, 2010, was at a minimum \$947.00, less  
10 than the existing aggregate trust fund accountability of GREI to every principal who was an  
11 owner of said funds, without first obtaining the prior written consent of the owners of said funds,  
12 in violation of Code Section 10145(a) and Regulations 2832.1, 2950(g) and 2951. The shortage  
13 was caused by accrued bank charges.

14 (b) (1) Allowed Mary J. Vawter and Doborah F. Smith to be a signatories on the  
15 accounts into which trust funds were deposited, when they were not licensed by the Department  
16 in any capacity and were not covered by a fidelity bond, in violation of Code Section 10145 and  
17 Regulation 2834(a); and

18 (b) (2) HANCE was not a signatory on the accounts into which trust funds were  
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10.

The conduct of Respondents GREI and HANCE, described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

9(a)

Code Section 10145 and Regulations 2832.1, 2950(g) and 2951

9(b)

Code Section 10145 and Regulation 2834

9(c)

Code Section 10140.6

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondents GREI and HANCE under the provisions of Code Sections 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

(Negligence)

12.

The overall conduct of Respondents GREI and HANCE constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

THIRD CAUSE OF ACCUSATION

(Fiduciary Duty)

13.

The conduct, acts and omissions of Respondents GREI and HANCE constitute a breach of fiduciary duty, owed to GREI's clients and trust fund beneficiaries of good faith, trust,

1 confidence and candor, within the scope of their contractual and escrow relationship, in violation  
2 of Code Section 10177(g) and constitutes cause for discipline of the real estate license and  
3 license rights of said Respondents pursuant to the provisions of Code Section 10177(g).  
4

5 FOURTH CAUSE OF ACCUSATION  
6 (Supervision and Compliance)

7 14.

8 The overall conduct of Respondent HANCE constitutes a failure on said  
9 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable  
10 supervision and control over the licensed activities of GREI and its officers and employees, as  
11 required by Code Section 10159.2 and Regulation 2725, and to keep GREI in compliance with  
12 the Real Estate Law, with specific regard to trust fund and escrow division handling, and is cause  
13 for discipline of the real estate license and license rights of Respondent pursuant to the provisions  
14 of Code Sections 10177(d), 10177(g) and 10177(h).

15 PRIOR DEPARTMENT ACTION

16 15.

17 On February 9, 1996, in Case No. H-26473 LA, a Statement of Issues was filed  
18 against respondent GABLE REAL ESTATE INC. that resulted in discipline for said Respondent  
19 for violations of Sections 480, 10152 and 10177 of the California Business and Professions Code  
20 Effective July 18, 1996, GABLE REAL ESTATE INC's corporate broker license was denied  
21 with right to petition for a restricted corporate broker license, issued thereon.

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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 imposing disciplinary  
3 action against all licenses and/or license rights of Respondents GABLE REAL ESTATE INC.  
4 and ROGER DALE HANCE, individually and as designated officer of Siuking Tsou Inc., under  
5 the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) and  
6 for such other and further relief as may be proper under other applicable provisions of law  
7 including but not limited to restitution of advanced fees paid for unearned and unrefunded loan  
8 modifications/short sales pursuant to Government Code Section 11519; for costs of audit  
9 (\$8,023.50) pursuant to Code Section 10148; for costs of investigation and enforcement in this  
10 matter in an amount to be determined at Hearing and paid within six (6) months of the effective  
11 date of the Decision and Order. Payments may be made in equal monthly installments beginning  
12 thirty (30) days from the effective date of the Decision and Order. Failure to submit to the  
13 Department each payment of cost recovery shall automatically terminate the stay of the order and  
14 Respondent's real estate license shall be suspended effective thirty (30) days from the due date of  
15 the delinquent payment without further notice or hearing.

16  
17 Dated at Los Angeles, California.

18  
19 this 3 day of February, 2012.

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21   
22 ROBIN TRUJILLO  
23 Deputy Real Estate Commissioner

24 cc: Gable Real Estate Inc.  
25 Roger Dale Hance  
26 Robin Trujillo  
Audits - Godswill Keraoru  
Sacto