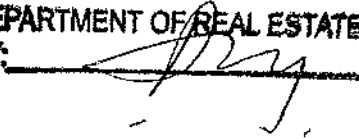


FILED

FEB -8 2013

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DEPARTMENT OF REAL ESTATE
BY: 

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SALIYA MAHEN DE SILVA,) No. H-38697 LA
13) ACCUSATION
14 Respondent.)
15)

16
17 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
18 State of California, for cause of Accusation against SALIYA MAHEN DE SILVA,
19 (“Respondent or DE SILVA”) is informed and alleges as follows:

20 1.

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

23 2.

24 At all times herein mentioned, Respondent was licensed and/or had license rights
25 under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions
26 Code).
27

28 ///

1 3.

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

4 4.

5 From February 18, 1993 until May 27, 2011, Respondent SALIYA MAHEN DE
6 SILVA has been licensed as a real estate salesperson, License No. 01154425. On May 27, 2011,
7 Respondent's license expired. Respondent retains license rights pursuant to Code Section 10201.

8
9 FIRST CAUSE OF ACCUSATION

10 (Failure to Report Indictment)

11 5.

12 There is hereby incorporated in this First, separate Cause of Accusation, all of the
13 allegations contained in Paragraphs 1 through 4, above, with the same force and effect as if
14 herein fully set forth.

15 6.

16 Code Section 10186.2, subdivision (a)(1)(A), requires real estate licensees to
17 report to the Department any bringing of an indictment or information charging a felony against
18 the licensee. Said report must be made in writing within 30 days from the bringing of the
19 indictment under Code Section 10186.2(a)(2).

20 7.

21 On October 2, 2012, an indictment was filed before the United States District
22 Court for the Central District of California, in Case No. CR12-0959, against Respondent DE
23 SILVA, among others. Said indictment charged Respondent SALIYA MAHEN DE SILVA,
24 with felony violations of 18 U.S.C. § 1344 (bank fraud).

25 8.

26 Respondent DE SILVA's failure to report said indictment to the Department in
27 writing within 30 days of the bringing of the indictment, is in violation of Code
28

1 Sections 10186.2(a)(1)(A) and 10186.2(a)(2), which constitutes grounds to suspend or revoke
2 Respondent DE SILVA's license and license rights pursuant to Code Sections 10177,
3 subdivision (d) and/or 10177, subdivision (g).
4

5 SECOND CAUSE OF ACCUSATION

6 (Real Estate Fraud)

7 9.

8 There is hereby incorporated in this Second, separate Cause of Accusation, all of
9 the allegations contained in Paragraphs 1 through 8 above, with the same force and effect as if
10 herein fully set forth.

11 10.

12 For an unknown period of time beginning no later than February 23, 2010, and
13 continuing in or about September 2010, Respondent DE SILVA, was employed as a salesperson
14 for 4 USA Loans Inc., a corporate real estate broker located in San Diego, California.
15 Independent from and unknown to his employer, Respondent surreptitiously engaged in the
16 business of, acted in the capacity of, advertised or assumed to act as a real estate salesperson in
17 the State of California within the meaning of Code Sections 10131, subdivisions (a) and (d).
18 Respondent's activities included soliciting buyers and sellers, borrowers or lenders for real
19 property sales and purchases and/or negotiating loans, collecting payments and/or performing
20 services for borrowers or lenders in connection with loans secured by liens on real property.
21

22 11.

23 Avetis A.: The Gould property.

24 In or around February 23, 2010, through the instrumentality of false personation,
25 fraudulent representations and deceit, Respondent DE SILVA represented himself to the Bank of
26 America as Avetis A., the owner of the real property located at 4465 Gould Ave. ("the Gould
27
28

1 property”) La Canada-Flintridge, California that the Bank of America had previously
2 repossessed pending foreclosure sale.

3 12.

4 Falsely claiming that the Bank of America’s Trustee’s Sale of the Gould property
5 was invalid, DE SILVA fraudulently represented to the bank that he was Avetis A., the owner of
6 the Gould property. DE SILVA represented to the bank that he had previous to its foreclosure
7 sale conveyed title to the Gould property via Quit Claim Deed. DE SILVA prepared, forged and
8 facsimiled the Quit Claim Deed to the bank in furtherance of his fraudulent scheme to gain
9 possession and title of the Gould property for his own intents and purposes. The Bank of
10 America rescinded the Trustee’s Sale of the Gould property and restored title to Respondent
11 representing himself as Avetis A. Subsequently, the real Avetis A discovered that after the
12 bank’s rescission of the Trustee’s Sale on March 12, 2010 and after the restorral of the Gould
13 deed to him on August 16, 2010, DE SILVA, without his consent, had listed the Gould property
14 for sale.
15

16 (Violations of the Real Estate Law)

17 13.

18 The conduct of Respondent DE SILVA, as alleged and described in Paragraphs 9
19 through 12, above, violated the Code and the Regulations hereunder, under the provisions as set
20 forth below:

21 10176 subdivision (a) for substantial misrepresentation to the Bank of America.

22 10176 subdivision (b) for false promises of a character likely to influence,
23 persuade, or induce the Bank of America to rescind its foreclosure sale of the Gould property.

24 10176 subdivision (i) and or 10177 subdivision (j) for fraud and dishonest dealing
25 and negligence in connection with the Gould sale transaction.

26 10137 Unlawful employment.

27 ///

28 ///

1 THIRD CAUSE OF ACCUSATION

2 (Negligence)

3 14.

4 There is hereby incorporated in this Third, separate Cause of Accusation, all of
5 the allegations contained in Paragraphs 1 through 13, above, with the same force and effect as if
6 herein fully set forth.
7

8 15.

9 The overall conduct of Respondent DE SILVA constitutes negligence or
10 incompetence and is cause for discipline of the real estate license and license rights of
11 Respondent DE SILVA s pursuant to the provisions of Code Section 10177 subdivision (g).
12

13 FOURTH CAUSE OF ACCUSATION

14 (Fiduciary Duty)

15 16.

16 There is hereby incorporated in this Fourth, separate Cause of Accusation, all of
17 the allegations contained in Paragraphs 1 through 15, above, with the same force and effect as if
18 herein fully set forth.

19 17.

20 The conduct, acts and omissions of Respondent DE SILVA constitutes a breach
21 of fiduciary duty, owed to the Bank of America and Avetis A., good faith, trust, confidence
22 and candor, within the scope of their respective professional relationships, in violation of Code
23 Section 10177 subdivision (g) and constitutes cause for discipline of the real estate license and
24 license rights of Respondent DE SILVA pursuant to the provisions said section.

25 18.

26 Code Section 10106 provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
28 may request the administrative law judge to direct a licensee found to have committed a violation

1 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
2 of the case.

3
4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
5 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
6 action against all licenses and/or license rights of Respondent SALIYA MAHEN DE SILVA,
7 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the
8 cost of investigation and enforcement as permitted by law, and for such other and further relief
9 as may be proper under other provisions of law including restitution and costs of investigation
10 and enforcement.

11 Dated at Los Angeles, California

12 this 7 day of February, 2013.

13
14 
15 ROBIN TRUJILLO
16 Deputy Real Estate Commissioner
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21
22

23 cc: Saliya Mahen De Silva
24 Robin Trujillo
25 Sacto.
26 OAH
27 Adriana Cabassa
28