

Sachs

1 Elliott Mac Lennan, Counsel (SBN 66674)
2 Bureau of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 Direct (213) 576-6911
6 Facsimile (213) 576-6917

FILED

DEC 18 2013

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DAMIAN D. RUDOLPH,) No. H-38961 LA
13) FIRST AMENDED ACCUSATION
14 Respondent,)

15 The Accusation filed July 17, 2013, is amended in its entirety as follows:

16 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against DAMIAN D. RUDOLPH ("Responden" or
18 "RUDOLPH"), is informed and alleges as follows:

19 1.

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

22 2.

23 From August 27, 1996, Respondent RUDOLPH has been licensed as a real estate
24 salesperson. RUDOLPH was employed by real estate broker Jessica Dawn Swift Nielsen
25 between May 8, 2006 to October 8, 2012. From October 16, 2012 to present, RUDOLPH has
26 been licensed by corporate real estate broker 1st Point Lending Inc.

1 FIRST CAUSE OF ACCUSATION
2 (Investigation by Bureau of Real Estate)

3 3.

4 At all times mentioned, in the Cities of Walnut and Pasadena, California, County
5 of Los Angeles, Respondent RUDOLPH acted as real estate salesperson and conducted licensed
6 activities within the meaning of Business and Professions Code ("Code") Section 10132.

7 4.

8 On May 26, 2013, the Bureau completed an investigation of the books and
9 records of Respondent RUDOLPH pertaining to certain activities described in Paragraph 7. The
10 investigation revealed violations of the Code and Title 10, Chapter 6, California Code of
11 Regulations ("Regulations") as set forth in the following paragraphs.

12 Fraud and Dishonest Dealing and Unlawful Receipt of Compensation

13 5.

14
15 Between July 13, 2010 and January 28 2011, Respondent RUDOLPH engaged in
16 a fraudulent scheme to defraud City Escrow, an escrow company licensed by the California
17 Department of Oversight, and located in West Covina, California, owned by Laurie Kim. City
18 Escrow issued checks to RUDOLPH which had been intended for City Escrow's beneficiaries
19 which included lenders and other consumers who paid funds into said escrow. Through the
20 instrumentality of receiving, taking possession of, and cashing said escrow checks, RUDOLPH
21 committed fraud and dishonest dealing for the following named institutional lenders in the total
22 amount of \$57,601.65, unconnected to any legitimate real estate employment, in violation of
23 Code Sections 10130, 10137, 10177(d), 10177(g) and 10176(i)/10177(j), for fraud and dishonest
24 dealing and for receiving and accepting compensation directly and not from his employing
25 broker and whilst acting as a broker.
26

Table: Checks fraudulently cashed by Respondent RUDOLPH:

Escrow File No.	Check Nos.	Checks cashed by RUDOLPH between dates	Check Amounts
3344	7263	July 13, 2010 and	\$2,500.00
	7292	August 17, 2010	\$2,500.00
	7374		\$3,000.00
	7382		\$2,500.00
3373	7349	August 3, 2010 and	\$2,000.00
	7709	March 2, 2011	\$3,000.00
	8065		\$750.00
	8148		\$1,016.65
3467	7420	August 24, 2010 and	\$1,500.00
	7605	October 18, 2010	\$500.00
3466	7470	September 7, 2010 and	\$3,000.00
	7471	March 17, 2011	\$1,000.00
	7828		\$3,000.00
	7870		\$3,000.00
	8066		\$850.00
	8211		\$2,850.00
3408	7475	September 20, 2010	\$2,300.00
3408	7518	September 22, 2010	\$2,800.00
3593	7716	November 8, 2010	\$2,300.00

3437	7743	November 16, 2010	\$1,075.00
3619	7748	November 23, 2010	\$3,000.00
	7749	and January 28, 2011	\$2,000.00
	7958		\$2,000.00
	8030		\$2,000.00
	8046		\$1,860.00
	8064		\$700.00
3409	7916	December 17, 2010	\$2,200.00
3351	8178	March 2, 2011	\$1,400
Total			\$57,601.65

SECOND CAUSE OF ACCUSATION
(Negligence)

6.

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

THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

7.

The conduct, acts and omissions of RUDOLPH constitutes a breach of fiduciary duty, owed to the public, to City Escrow, and to the beneficiaries of its escrow holdings on its behalf, of fair dealing, good faith, trust, confidence and candor, in violation of Code Sections 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondent pursuant to the provisions of said Code Sections.

///

1
2 8.

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

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and/or license rights of Respondent DAMIAN D. RUDOLPH under
11 the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) and
12 for such other and further relief as may be proper under other applicable provisions of law,
13 including, but not limited to restitution, costs of investigation and enforcement..
14

15
16 Dated at Los Angeles, California.

17
18 this 17 day of December, 2013.

19
20 
21 ROBIN TRUJILLO
22 Deputy Real Estate Commissioner

23
24 cc: Damian D. Rudolph
25 Jessica Dawn Swift Nielsen.
26 Robin Trujillo
David Huang
Sacto