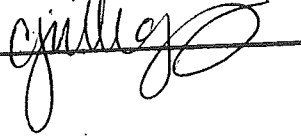


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**FILED**

DEC - 9 2014

BUREAU OF REAL ESTATE

By 

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6  
7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of ) CalBRE No. H-39669 LA  
11 ERENIE PENDON FORTNEY, ) ACCUSATION  
12 Respondent. )  
13 )  
14 )

15 The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State  
16 of California, for cause of Accusation against ERENIE PENDON FORTNEY aka Erenie  
17 Fortney and Erenie P. Sia ("Respondent"), is informed and alleges as follows:

18 1.

19 The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State  
20 of California, makes this Accusation in her official capacity.

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2.

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

3.

Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4.

From October 22, 1996, through the present, Respondent has been licensed and/or has license rights by the Bureau of Real Estate ("Bureau") as a real estate salesperson, License ID 01214889. From May 10, 2011, through January 6, 2014, Respondent was licensed under the employment of broker Allison James Estates and Homes of Riverside.

5.

At all times relevant herein Easton, Inc., Herbert Schaffer, The Fortney Group, Inc., Hamilton and Helton, LLC, Hamilton and Helton 2, LLC, and Hamilton and Helton were not licensed by the Bureau in any capacity.

6.

Easton, Inc. is a California corporation formed on or about January 19, 1983. Herbert Schaffer is President, CEO, and the sole officer and director of Easton, Inc. Herbert Schaffer was licensed as a real estate salesperson from April 30, 1976 to June 14, 1988, License ID 00555243.

7.

The Fortney Group, Inc. is a California corporation formed on or about May 30, 2012.

1 Respondent is President, CEO, and the sole officer and director of The Fortney Group, Inc.

2 8.

3 Hamilton and Helton, LLC, Hamilton and Helton 2, LLC, and Hamilton and Helton  
4 (collectively "Hamilton and Helton") are California limited liability corporations. Michael  
5 Hamilton Camp and Troy Helton are officers and directors of Hamilton and Helton.

6 9.

7 From November 16, 2009, through the present, Michael Hamilton Camp aka Mike  
8 Hamilton Camp has been licensed by the Bureau as a real estate broker, License ID 01714600.

9 10.

10 From November 6, 2003 through the present, Troy Randall Helton ("Helton") has been  
11 licensed by the Bureau as a real estate salesperson, License ID 01400572. From February 8,  
12 2013, through the present, Helton has been licensed under the employment of broker, Mike  
13 Hamilton Camp. From November 6, 2003, through April 21, 2012, Helton was licensed under  
14 the employment of broker, Hidden Valley Real Estate Center, Inc.

15 Short Sale of 31927 Cypress Glen Ct.

16 11.

17 On or about August 26, 2012, Respondent entered into an exclusive Residential Listing  
18 Agreement with sellers, John and Elayne W. ("sellers"), for the sale of real property located at  
19 31927 Cypress Glen Ct., Lake Elsinore, California ("Cypress Glen property"). The listing price  
20 was \$220,000. The broker commission was to be six percent of the purchase price. On  
21 October 28, 2012, the sellers received a letter from their lender, Bank of America, informing  
22 them that they had been approved to list the Cypress Glenn property for a short sale with a listing  
23 price of \$209,000. The short sale was to be an "arm's length" transaction.

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12.

On or about October 28, 2012, Respondent submitted a residential purchase agreement for the purchase of the Cypress Glenn property on behalf of Steven Sia, the prospective buyer. Respondent was listed as the agent for both the buyer and the sellers in the short sale transaction. Respondent stood to gain dual commissions from the transaction. Respondent is related to Steven Sia.

13.

On October 31, 2012, Respondent signed a Short Sale Real Estate Licensee Certification for Bank of America wherein Respondent certified various material facts including, without limitation, that: 1) Respondent had not engaged in any conduct to restrict or limit offers from buyers; 2) Respondent was not engaging in appraisal fraud, flipping, or straw buying; 3) Respondent was not receiving any compensation, remuneration or benefit other than what had been disclosed in the preliminary and certified HUD-1 closing settlement statements; 4) Respondent was not aware of any arrangement for compensation or other remuneration to seller, buyer, licensees, or other lien holders, either directly or indirectly related to the purchase agreement that had been paid outside the official terms of closing as presented in the purchase contract and certified HUD-1 closing settlement statements; and 5) Respondent had disclosed to Bank of America any known relationship to Buyer or ownership interest in Buyer's company, and respondent further acknowledged that she had no existing business relationship with buyer and/or seller other than the purchase of property according to the terms and conditions of the purchase contract. Respondent made substantial misrepresentations and engaged in dishonest dealing by failing to disclose several material facts to the sellers' lender including, but not limited to, that Respondent was related to buyer Steven Sia; that the commission was paid

1 through Respondent's unlicensed corporation, The Fortney Group, Inc.; and that Respondent had  
2 a business relationship with Easton, Inc. and/or Hamilton and Helton.

3 14.

4 On December 27, 2012, Easton, Inc. originated a loan in the amount of \$102,625 for Troy  
5 Helton, which was secured by real property. The loan was primarily for Steven Sia's purchase of  
6 a residential property for personal family or household use. On December 27, 2012, Herbert  
7 Schaffer executed a Third Party Deposit-Authorization for escrow no. RTE-4214372(ju), which  
8 acknowledged that Easton, Inc. had deposited the sum of \$102,625 into escrow, for and on  
9 behalf of Troy Helton, for Steven Sia's purchase of the Cypress Glenn property.

10 15.

11 Escrow closed on December 31, 2012. On January 6, 2013, Hamilton and Helton, LLC  
12 received a processing payment of \$4,534 from escrow for the short sale of the Cypress Glenn  
13 property. On January 13, 2013, the Fortney Group, Inc. received a wired payment for \$12,300  
14 from escrow as compensation for the short sale of the Cypress Glen property. Respondent  
15 submitted, or caused to be submitted, a commission disbursement authorization form,  
16 purportedly signed by Matthew Crumbaugh on behalf of Allison James Estates and Homes,  
17 which directed the escrow company to forward to The Fortney Group, Inc., the \$12,300  
18 commission that was owed to Allison James Estates and Homes from the short sale of the  
19 Cypress Glenn property.

20 Resale of 31927 Cypress Glen Ct.

21 16.

22 On or about April 24, 2013, Respondent entered into an exclusive Residential Listing  
23 Agreement with seller, Steven Sia, for the sale of the Cypress Glen property. The listing price  
24

1 was \$339,900. The broker commission was to be two percent of the purchase price. On June 7,  
 2 2013, Nestor M. made an offer to purchase the Cypress Glen property for \$339,000. John  
 3 Aguilar represented Nestor M. as his agent in the transaction. Respondent represented Steven  
 4 Sia as the seller's agent in the transaction. Escrow closed on July 31, 2012. The Fortney Group,  
 5 Inc. received \$148,009.08 and Easton, Inc. received \$146,093.42, respectively, from the  
 6 proceeds of the resale of the Cypress Glen property.

7 Business relationship with Troy Helton and Hamilton and Helton

8 17.

9 Within the previous three years, Respondent has acted as a dual agent in multiple short  
 10 sale transactions where Respondent represented various sellers and also represented either  
 11 Hamilton and Helton or Troy Helton, as the prospective buyer of the residential properties.  
 12 Respondent then represented Hamilton and Helton or Troy Helton as their agent in the resale or  
 13 flip of the same properties. These short sale transactions include, but are not limited to, the  
 14 following transactions:

Property address	Buyer	Short sale Purchase date	Purchase price	Resale date (flipped date)	Resale price
19355 Sweetwood Ln.	Hamilton and Helton	8/28/2012	\$129,498	10/23/2012	\$200,000
32336 Rock Rose Dr.	Hamilton and Helton	9/27/2012	\$195,000	11/28/2012	\$260,000
33553 Cedar Creek Ln.	Hamilton and Helton	10/19/2012	\$150,000	1/14/2013	\$200,000
32603 Winterberry Ln.	Hamilton and Helton	12/4/2012	\$154,500	3/29/2013	\$215,000
34224 Toyon Ct.	Troy Helton	12/31/2012	\$160,000	7/18/2013	\$259,900
4035 Ash Street	Hamilton and Helton	12/31/2012	\$208,500	8/29/2013	\$326,000
29040 Quail Bluff	Troy Helton	01/4/2013	\$215,000	8/26/2013	\$290,000
32446 Perigord Rd.	Troy Helton	5/10/2013	\$250,000	9/20/2013	\$350,000
32021 Sugarbush Ln.	Troy Helton	5/10/2013	\$222,000	8/29/2013	\$345,000

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18.

Respondent failed to retain all offers and rejected offers made by prospective purchasers for the initial short sale transactions noted above in Paragraph 17.

Short Sale of 5246 W. 123<sup>rd</sup> Place

19.

On or about November 5, 2011, Respondent entered into an exclusive Residential Listing Agreement with sellers, Esteban and Elisa Sia (“sellers”), for the sale of real property located at 5246 W.123<sup>rd</sup> Pl., Hawthorne, California (“W. 123<sup>rd</sup> property”). The listing price was \$425,000. The broker commission was to be six percent of the purchase price. Respondent is related to the sellers.

20.

On January 10, 2012, Respondent submitted a Residential Purchaser Agreement on behalf of prospective buyer, Joel Dahl, for the purchase of the W. 123<sup>rd</sup> property for a purchase price of \$350,000. Respondent was acting as a dual agent and earned a dual commission from the short sale transaction. On February 27, 2012, the sellers received a letter from their lender, Bank of America, informing them that it had approved the short sale of the W.123<sup>rd</sup> property to Joel Dahl for the sales price of \$360,000. The short sale was to be an “arm’s length” transaction. Respondent and the sellers failed to disclose to the sellers’ lender that Respondent is related to the sellers.

21.

The conduct, acts and/or omissions of Respondent as set forth above in Paragraphs 4 through 20, constitute a violation of Business and Professions Code section 10130 and cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code

1 Sections 10176(a) (substantial misrepresentation), 10176(i) (fraud or dishonest dealing) or  
2 10177(j) (fraud or dishonest dealing), 10177(d) (violation of the Real Estate Law) and/or  
3 10177(g) (negligence).

4 22.

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

9 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
10 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
11 against all licenses and/or license rights of Respondent ERENIE PENDON FORTNEY under the  
12 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of  
13 investigation and enforcement as permitted by law, and for such other and further relief as may  
14 be proper under other provisions of law.

15 Dated at Los Angeles, California

16 this 24<sup>th</sup> day of November, 2014.

17  
18   
19 VERONICA KILPATRICK  
20 Deputy Real Estate Commissioner

21 cc: Erenie Pendon Fortney  
22 Realty One Group, Inc.  
23 Veronica Kilpatrick  
24 Sacto