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FILED

SEP 26 2016

BUREAU OF REAL ESTATE

By 

7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-40395 LA

12 THOMAS DAO,)

ACCUSATION

13 Respondent.)
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15 The Complainant, Maria Suarez, a Supervising Special Investigator of the State
16 of California, acting in her official capacity, for cause of Accusation against THOMAS DAO
17 (“Respondent”) is informed and alleges as follows:

18 1.

19 All references to the “Code” are to the California Business and Professions
20 Code, all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all
21 references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

22 2.

23 Respondent THOMAS DAO has been licensed by the Bureau of Real Estate
24 (“Bureau”) as a real estate salesperson since April 14, 1987, and as a real estate broker since
25 August 3, 1990. Respondent’s real estate broker license is due to expire on August 2, 2018.

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1 3.

2 At all times mentioned, in the City of Westminster, County of Los Angeles,
3 Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as
4 a real estate broker within the meaning of Code Section 10131(a), including the solicitation for
5 listings of and the negotiation of the purchase and sale of real property as the agent of others,
6 and the conducting of broker-controlled escrow activities under the Respondent's real estate
7 broker license pursuant to Financial Code Section 17006(a)(4).

8 4.

9 On May 31, 2016, the Bureau completed two audit examinations of the books
10 and records of Respondent, with regard to the real estate sales and broker-controlled escrow
11 activities described in paragraph 3, above. The audit examinations covered the period of time
12 from July 1, 2013, to December 31, 2015. The primary purpose of the examinations was to
13 determine Respondent's compliance with the Real Estate Law. The audit examinations
14 revealed numerous violations of the Code and the Regulations as set forth in the following
15 paragraphs, and more fully discussed in Audit Reports LA150080 (Broker-controlled Escrow)
16 and LA150100 (Real Estate Sales), and the exhibits and work papers attached to said audit
17 reports.

18 Bank and Trust Accounts

19 5.

20 At all times herein relevant, in connection with the activities described in
21 Paragraph 3, above, Respondent accepted or received funds including funds to be held in trust
22 (hereinafter "trust funds") from or on behalf of actual or prospective parties in connection with
23 broker controlled escrow activities. Thereafter Respondent made deposits and disbursements of
24 such trust funds. From time to time herein mentioned during the audit period, said trust funds
25 were deposited and/or maintained by Respondent in the following bank account:

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2 Southland Mortgage Group
3 Escrow Division-Trust Account
4 Account No. XXXXXX75 (Redacted for security)
5 Union Bank of California
6 Los Angeles, CA

(T/A 1 – Respondent’s trust account used for broker escrow trust funds)

7 Violations

8 6.

9 With respect to the licensed activities referred to in Paragraph 3, and the audit
10 examination including the exhibits and work papers referenced in Paragraph 4, it is alleged that
11 Respondent:

12 (a) Permitted, allowed or caused the disbursement of trust funds from T/A 1
13 to fall to an amount which, as of January 30, 2015, was \$102,218.46 less than the existing
14 aggregate trust fund liability to the owners of said funds, without first obtaining the prior written
15 consent of the owners of said funds in violation of Code Section 10145 and Regulations 2832.1
16 and 2951;

17 (b) Failed to maintain an accurate record of trust funds received and
18 disbursed for T/A 1 in violation of Code Section 10145 and Regulations 2831 and 2950(d);

19 (c) Failed to maintain a columnar record of the receipt and disbursement of
20 trust funds handled through T/A 1 in violation of Code Section 10145 and Regulations 2831,
21 2950(d), and 2951;

22 (d) Failed to maintain a separate record for each beneficiary of trust funds
23 handled through T/A 1 in violation of Code Section 10145 and Regulations 2831.1, 2950(d),
24 and 2951;

25 (e) Failed to perform a monthly reconciliation of the separate record to the
26 control record of trust funds handled through T/A 1 in violation of Code Section 10145 and
27 Regulations 2831.2, 2950(d), and 2951;

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2 (f) Failed to place funds received as trust funds into T/A 1 by the next
3 business day following the receipt of such funds in violation of Code Section 10145 and
4 Regulations 2832 and 2950(f), 2951;

5 (g) Allowed unlicensed and unbonded individuals Adrienne Nguyen and
6 Julie Dao to be signors on T/A 1 in violation of Code Section 10145 and Regulations 2834 and
7 2951;

8 (h) Engaged in earnings credit relationship to offset bank service charges to
9 T/A 1 in violation of Code Sections 10145 and 10176(g), and Regulations 2830 and 2951;

10 (i) Misrepresented to the seller that Respondent's agent held the earnest
11 money deposit for a real estate sales transaction in violation of Code Section 10176(a);

12 (j) Failed to disclose to all parties involved in real estate activities that
13 Respondent had an interest as an owner in the escrow operation in violation of Regulation
14 2950(h);

15 (k) Performed third party escrows for transactions in which Respondent was
16 not involved as either the listing or selling broker in violation of Financial Code Section
17 17006(a)(4);

18 (l) Failed to include the real estate license number of Respondent's sales
19 agents on real estate purchase agreements in violation of Code Section 10140.6(b) and
20 Regulation 2773;

21 (m) Failed to submit the Escrow Activity Report to the Bureau within sixty
22 days of the end of calendar years 2013 and 2014 in violation of Code Section 10141.6;

23 (n) Used the fictitious business name "Superior Real Estate" to conduct real
24 estate sales activities without first obtaining a license from the Bureau to conduct real estate
25 activities under that fictitious business name, in violation of Code Section 10159.5 and
26 Regulation 2731; and

27

1 (o) Failed to exercise reasonable supervision over the activities of his
2 employees to ensure compliance with the Real Estate Law and the Commissioner's Regulations
3 in violation of Code Sections 10159.2 and 10177(h) and Regulation 2725.

4 7.

5 The conduct of Respondents described in Paragraph 6, above, violated the Code
6 and the Regulations as set forth below:

7 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8 6(a)	Code Section 10145 9 Regulations 2832.1 and 2951
11 6(b)	Code Section 10145 12 Regulations 2831 and 2950(d)
14 6(c)	Code Section 10145 15 Regulations 2831, 2950(d), and 2951
17 6(d)	Code Section 10145 18 Regulations 2831.1, 2950(d), and 2951
20 6(e)	Code Section 10145 21 Regulation 2831.2, 2950(d), and 2951
23 6(f)	Code Section 10145 24 Regulations 2832, 2950(f), and 2951
26 6(g)	Code Section 10145 27 Regulations 2834 and 2951

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- 6(h) Code Sections 10145 and 10176(g)
Regulations 2830 and 2951
- 6(i) Code Section 10176(a)
- 6(j) Regulation 2950(h)
- 6(k) Financial Code Section 17006(a)(4)
- 6(l) Code Section 10140.6(b)
Regulation 2773
- 6(m) Code Section 10141.6
- 6(n) Code Section 10159.5
Regulation 2731
- 6(o) Code Sections 10159.2 and 10177(h)
Regulation 2725

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents under the provisions of Code Sections 10176(a), 10176(g), 10177(d), 10177(g), and/or 10177(h).

8.

Code Section 10148(b) provides, in pertinent part, that the Real Estate Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has

1 found in a final decision, following a disciplinary hearing, that the broker has violated Code
2 Section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

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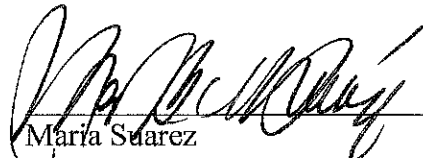
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5 9.

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

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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 the license and license rights of Respondent THOMAS DAO under
15 the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the costs of
16 investigation and enforcement as provided by law, for costs of the audit, and for such other and
17 further relief as may be proper under other applicable provisions of law.

18 Dated at Los Angeles, California: 20 September 2016.

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21 
22 Maria Suarez
23 Supervising Special Investigator

24
25 cc: Thomas Dao
26 Maria Suarez
27 Sacto
Audits -- Anitha Wijaya